



Written by [Joe Wolverton, II, J.D.](#) on June 29, 2023

Convention of States Ignores Term Limits Already Included in the Constitution

In [an earlier article](#), I challenged a few of the Convention of States' (COS) "Seven Guidelines for Drafting Proposed Amendments" and today I'll continue exposing errors in that organization's understanding of the U.S. Constitution.

Under the heading "Germane to the Application," the COS blog post lists the "three subject matters" approved by COS for a proposed amendment. In fact, the group warns potential amendment authors, "If a proposed amendment does not fit into one of these categories, it cannot be considered at an Article V convention under the call of a Convention of States application."



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One of the acceptable amendment purposes is to "impose term limits on federal officials."

For years, COS and similar schemes have demanded that any convention must consider an amendment limiting the terms of members of Congress. While such a response might seem tempting at first glance given the extent of the abuses of power by the legislative branch, closer inspection reveals otherwise.

The fact of the matter is that, regardless of how tempting it is to keep politicians from making Congress a career, term limits would:

1. Limit the franchise of voters
2. Throw out good (constitutionalist) congressmen along with the bad
3. Make a substantial part of the legislative branch a lame-duck Congress much less inclined to pay attention to the people, and
4. Would in *no way* address the lack of understanding on the part of the people themselves, who are ultimately responsible for the kind of representation we get.

Furthermore, term limits are anathema to the American scheme of government established by the Founders at the Constitutional Convention in 1787.

Besides, the Constitution already provides for imposition of term limits — in the proper sense. They're called *frequent elections*. James Madison explained the Founders' idea of term limits in *The Federalist*, No. 52:

As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured.



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Madison even makes the case that the preservation of liberty is dependent on the coexistence of frequent elections and the exercise by state legislatures as a check on Congress:

The federal legislature will not only be restrained by its dependence on its people, as other legislative bodies are, but ... it will be, moreover, watched and controlled by the several collateral [state] legislatures, which other legislative bodies are not.

Curiously, COS consistently casts aspersions on state legislatures' power to nullify federal overreach, claiming that it is unconstitutional and not an effective weapon in the war against federal tyranny. Apparently James Madison disagrees.

Besides, the Founders did, after all, impose term limits, by defining the length of terms of office for the various federal officers. No member of the House of Representatives can serve more than two years *unless the people of his district let him*.

That's the type of term limit that our Founders established and that is a proper restoration of those original principles, rather than a potentially devaluing repair using similar, but shoddy, substitutes.

Madison's *Federalist* co-author Alexander Hamilton put a pretty fine point on his opinion on the matter in *The Federalist* No. 72:

Nothing appears more plausible at first sight, nor more ill-founded upon close inspection.

Honestly, that statement accurately describes nearly everything ever proposed by the people at the Convention of States.

And, seeing as how their is authority in antiquity, I'll share this last quotation from a Founding Father regarding the foolishness of an amendment imposing term limits on Congress. At the Constitutional Convention of 1787, Gouverneur Morris said:

The ineligibility proposed by the [term limits] clause as it stood tended to destroy the great motive to good behavior, the hope of being rewarded by a re-appointment. It was saying to him, "make hay while the sun shines."

Next, with regard to term limits on federal judges, the Constitution already provides for those, as well. It's called good behavior.

Article III, Section 1 states:

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Article I divides the power of removing bad judges between the House and the Senate.

If a judge exceeds the power granted to him by the Constitution, then it is the responsibility of Congress to call him on it and charge him for his offenses.



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Like their call for congressional term limits, COS's push to limit the terms of Supreme Court justices seems to be a way of relieving the people of their responsibility of governing themselves. Rather than the people being required to ride herd on their federal representatives to impeach poorly performing judges, the COS scheme would take this power away from the people and their representatives.

This arrangement sounds suspiciously like the various "nanny state" programs forced on us by socialists that presume that we can't take care of ourselves.

We could easily and effectively limit the time spent by a politician in Congress if instead of trying to *amend* the Constitution, we began *enforcing* the Constitution!

For the reader interested in a longer explanation of why term limits are a veritable wolf in sheep's clothing, read [this earlier article](#) I wrote on the topic.

In the next article, we'll look at the rest of the COS "guidelines" for would-be writers of the next amendment to the Constitution.





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