



Written by on May 25, 2010

Term Limits — Still a Bad Idea

Do we really want to throw all of the bums out of Congress via term limits — or just the other guys' bums? Indeed, is every Congressman a bum? And if every person sent to Congress is a bum, whose fault is that?

“Throw the other state’s bum out of Congress, but not our own noble Solon. Our guy really brings home the bacon and he got my Social Security straightened out. We need term limits, though, because that rotten Congressman from the next state has been there forever, and we’ve got to get him out of there.”



Somehow, it doesn’t seem right that voters, exercising their collective will through Congress, should restrict who voters in other states are allowed to vote for. Yet, that is exactly what term limits would do. Each state already has its own built-in term-limit rule in the form of elections. The voters can throw the bum out after a single term, or they can keep sending him to Congress for 50 years if they wish to do so. Ted Kennedy of Massachusetts, Strom Thurmond of South Carolina, and Robert Byrd of West Virginia each belonged to the half-century club, all with overwhelming approval of the voters.

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To a lover of limited government and a champion of the Constitution, the very presence in the Senate of the aforementioned trio, as well as fellow collectivists like Chuck Schumer (D-N.Y.) and Dianne Feinstein (D-Calif.), may seem like a crime against reason and humanity. But that’s who the voters in those states sent to Washington. Why should (say) New Yorkers and Californians prohibit Texans from reelecting a Congressman they like — and in the process inadvertently limit their own franchise as well?

For those who have Representatives in Congress who actually abide by their oath of office to the Constitution (e.g., Dr. Ron Paul), do you really want voters elsewhere preventing you from reelecting him after (say) two or three terms? To people outside your state or district, your guy’s a bum who should be term-limited out of office. And that, in a nutshell, is the folly and unfairness of term limits. If we in our state want our own bum in Congress, that’s our business, and no one else’s. One state’s bum is another’s statesman. Of course, we may have a skewed image of our own Congressman, but term limits will not improve our perception or equip us to do better the next time.

Term limits also take away the major means of control that the citizens have over their Representatives: elections. The possibility of being thrown out in the next election is the most potent motivator and means of accountability for politicians. In a system of a fixed number of terms, a certain percentage of the Congressmen are lame ducks during their final congressional term, and the people lose their leverage to keep their Representatives on good behavior. (If, for example, U.S. Representatives are limited to three terms, then one-third of the Congress could be lame ducks.)



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Term Limits as Political Crab Grass

Talk of term limits starts to become as thick as crab grass when a large segment of the population gets completely fed up with the way Congress as a whole is doing business. Now is such a time, with the general approval rating of Congress hovering around 23 percent, just above pinworms. Term limits then begin to interest more than just the political geeks. People start to ask in earnest what they can do to get rid of those bums in Congress.

As this is being written, Utah Republican Convention delegates just “term-limited” their three-term Senator Bob Bennett, who came in third and will not appear on the Utah GOP ballot with the top two vote-getters. The GOP political elites were behind Senator Bennett, but the convention delegates, who were more in tune with everyday citizens, were not. Apparently, most delegates did not appreciate his votes for the TARP banking bailout boondoggle, for sponsoring a bill mandating health insurance, and for aggressive pursuit of so-called “earmarks,” more commonly referred by those who pay taxes as “pork.” So, voters can hunt and bag a RINO (Republican in Name Only) when they want to, without the need for term limits.

In the elections held on Tuesday, May 18, Pennsylvania voters ousted long-serving Senator Arlen Specter in the Democratic primary, while Kentucky voters rejected the GOP establishment-favored candidate, Secretary of State Trey Grayson, in favor of Dr. Rand Paul, son of Texas firebrand Representative Dr. Ron Paul.

Those who remember the halcyon days of the reign of House Speaker Tom Foley (D-Wash.) and House Ways and Means Committee Chairman Dan Rostenkowski (D-Ill.), two of the most powerful and long-serving persons ever to bestride the capitol building, recall that they were booted in the “massacre of 1994” by political novices. The voters, again.

In 1992, during a time of national discontent at the end of the reign of President Bush the Elder, 124 *new* members of Congress were elected, without term limits. Two years later, 87 new Representatives and 11 new Senators came into Congress. In those instances where the representation did not improve, it only goes to show that throwing a bum out of office does not necessarily mean that the newcomer will be better. But in those cases where there was improvement, the improvement occurred without term limits.

This election year, many Americans are upset with the representation we are getting from Washington, and a large number of Representatives and Senators may well be swept from office — through the ballot box, not term limits.

Term-limit Agitation Showing Up Again

The term-limits issue is not new. Term limits were discussed at the constitutional convention in 1787, when the delegates decided on short terms of office, but imposed no restriction on the number of times an officer could serve. James Madison recorded Connecticut delegate Roger Sherman as saying, “Frequent elections are necessary to preserve the good behavior of rulers. They also tend to give permanency to the government, by preserving that good behavior, because it ensures their re-election.”

Term limits have been seriously proposed at several points in the last few decades, including through the device of adding an amendment to the United States Constitution via an Article V constitutional convention. In 1996, The John Birch Society worked hard to fend off a constitutional convention to initiate term limits, spearheaded by an organization called “U.S. Term Limits,” a front group for a Washington insider coalition. Term-limit proponents recognized that Congress was never going to



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voluntarily propose an amendment to restrict reelection of its own members, so the only way it would happen would be by a constitutional convention, called by the states.

Article V of the U.S. Constitution provides for two methods of amendment, one where Congress initiates proposed amendments, and one where two-thirds of the states call a constitution convention. The latter method would allow the term-limit advocates to still get the issue into the U.S. Constitution, without needing the approval of Congress, which would clearly never give it.

U.S. Term Limits pushed for the states to enact their own federal term-limit resolutions, which were eventually passed in 23 states. The U.S. Supreme Court then ruled that state restrictions on congressional terms were unconstitutional. At that point, U.S. Term Limits could then weep, wail, and lament that the bad old Congress and the Supreme Court were corruptly limiting their options, and that despite the valiant efforts of the states to provide “choice,” politics triumphed. They then had the perfect argument to gain sympathy for a constitutional convention to give the voters the fairness they deserved — term limits now.

Ironically, times of political discontent or flux are the ones in which term limits are needed least, since the voters are most keen to throw the incumbents out and try some new blood. We can simply let voting do what it was designed to do. If the public is in a bad mood about elected officials, it can make that sentiment known at the polls. No term limits are needed, just voter education and engagement.

Term Limits — ?Do They Actually Work?

When our original constitutional Founders deliberated term limits 223 years ago, they decided that elections every two years for Representatives in the House, four years for the President, and six years for Senators would strike the right balance. They anticipated that these elected officials would often hold office for more than one term. Yes, the representation has been less than satisfactory for constitutionalists, but it is the voters who deserve the blame for this, and term limits will not make them any wiser. Until they become better informed, term limits will only result in one bad representative being replaced with another bad representative.

In political life, just as in any human action, people generally do what they perceive to be in their best interest. However, people are often beguiled into voting for demagogues who promise to give them a new shirt that (and here is the unstated part) can only be provided by taking it off their back in the first place. The way to prevent such tactics from working is not through term limits, but by informing ourselves and others about the Constitution and the principles of good government — and then voting only for candidates who promise to uphold the Constitution and voting out of office those who have not lived up to that promise. That is the only way to solve the problem permanently, because, without improving the electorate, we cannot expect Congress to improve either and the next Congressman will likely follow the pattern of the old in promising the dependent class two shirts off someone else’s — meaning *your* — back.

A perfect example of this phenomenon is Massachusetts. It loved the late Ted Kennedy, and continues to reelect such liberal stalwarts as Barney Frank and John Kerry. You may say, “Aha! Exhibit 1 and 2 on exactly why we need term limits.” Our all-collectivist Massachusetts congressional delegation (Scott Brown is no constitutionalist!) may tempt you to want to throw our bums out. However, resist the temptation, for the good of the nation. Otherwise, we will throw your guys out too — both the good and the bad — under the same rule.

We do have one test case of how actual term limits work: the 22nd Amendment to the U.S. Constitution.



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After President Franklin Delano Roosevelt's nearly four terms in office, Congress proposed an amendment prohibiting anyone from being elected President more than twice — or more than once if he had already served more than two years of a term to which someone else was elected. This amendment was adopted in 1951, and in the last 59 years 11 Presidents have served. Question: Have those 11 Presidents done a better job of honoring the Constitution than those who came before? Have they, for example, faithfully executed the nation's laws without intruding upon the legislative powers belonging to Congress, such as the power to declare war? The question answers itself.

The whole discussion of term limits leads to some quite uncomfortable conclusions about the electorate. Do we need to force people to do what they already have the full power to do, namely to vote out their Representative or Senators? This is akin to saying, "Stop me before I vote for this bum again." If the voters cannot spot the issues on which their Member of Congress fails to conform to his oath to uphold the U.S. Constitution, then the answer is education, not term limits.

— *Photo of Sen. Bob Bennett: AP Images*



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