

STATEMENT OF  
AMERICANS FOR TERM LIMITS  
A PROJECT OF THE CONSERVATIVE CAUCUS  
SUBMITTED BY ART HARMAN  
EXECUTIVE DIRECTOR  
BEFORE  
COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT  
UNITED STATES HOUSE OF REPRESENTATIVES  
ON  
“EXAMINING PROPOSED CONSTITUTIONAL AMENDMENTS”  
SEPTEMBER 19, 2023  
WASHINGTON, DC

Distinguished Members of this Committee:

I am proud to submit this report on behalf of the members of Americans for Term Limits and The Conservative Caucus, and on behalf of every American.

The U.S. Constitution, as written in 1787, did not include term limits for any elected official. For more than a century this seemed to cause no problems, and the United States enjoyed better government than most nations. Therefore, it is necessary to understand why the government worked so well for so long without term limits, what has changed, and why term limits must now be part of the solution.

The concept of “rotation in office” was a familiar one to the Founding Generation. The 1776 Constitution of Pennsylvania provided that “No person shall be capable of being elected a member to serve in the House of Representatives of the freemen of this Commonwealth more than four years in seven”.<sup>[1]</sup> Likewise, the Articles of Confederation (which served as the constitution of the thirteen states from 1781 until 1789) stated in Article V that “. . . no person shall be capable of being a delegate for more than three years in any term of six years . . .”<sup>[2]</sup> (Neither Pennsylvania nor the Confederation Congress had a Senate, so term limits for senators were unnecessary.)

During the Constitutional Convention, Ben Franklin declared that term limits should not be seen as “degrading the magistrates.” He pointed out that, according to “republican principles”, Americans recognized that “the rulers are the servants, and the people their superiors & sovereigns. For the former therefore to return among the latter was not to degrade but to promote them. And it would be imposing an unreasonable burden on them, to keep them always in a state of servitude, and not allow them to become again one of the Masters.”<sup>[3]</sup>

For most of the Constitutional Convention, it was intended that the President would be limited to a single term, and only in the last few days before adjournment was that changed to allow him to seek reelection.<sup>[4]</sup> When the Electoral College replaced Congress as the body that would elect the president, making him fully independent of Congress, and the term of office was reduced from seven years to four, the delegates were willing to accept the arguments that allowing reelection would promote good behavior and allow the benefit of his experience.<sup>[5]</sup> The same thoughts were probably behind the vote on June 12 to drop the Virginia Plan’s limitation on House members to just one consecutive term. (The Virginia plan put no term limits on senators.)<sup>[6]</sup>

This lack of term limits did not go unremarked. Thomas Jefferson told James Madison that the “feature I dislike, and greatly dislike, is the abandonment in every instance of the necessity of rotation in office . . .”<sup>[7]</sup> The New York ratifying convention recommended term limits for senators. During the Congressional debate in 1789 over the Bill of Rights, Rep. Thomas Tudor Tucker proposed adding term limits for both the House and Senate, but his amendments were rejected.<sup>[8]</sup>

Why did these requests for term limits go nowhere? At that time, formal term limits for legislators must have seemed unnecessary to most Americans. Despite the common belief in rotation in office, only Pennsylvania thought it necessary to put term limits for state legislators into its constitution. Term limits were not a legal requirement, but a natural, customary habit for that age. In the eighteenth century being a legislator was usually seen as a burden, providing little income while requiring them to spend time in the capital away from their jobs and families each year. Serving as a member of Congress, with a much longer trip, was an even greater hardship.

The expectation that few men would see Congress as a career, and most would consider it a burden, proved to be true for about a century. The Congressional Research Service concluded that “most lawmakers in the 18th and early 19th centuries can be characterized as ‘citizen legislators,’ holding full-

time non-political employment and serving in Congress on a part-time basis for a short number of years.”[9]

Even a single six-year term as Senator was often found to be too long to endure, causing frequent resignations. Of the twenty Senators at the opening of the First Congress in 1789, five resigned before the end of their term (another died), and two of their successors also resigned before the term was up.[10]

The few men who made politics a career usually followed the unwritten custom of rotation in office by shifting frequently from one position to another. James Madison served successively as a member of Virginia’s Executive Council, the Continental Congress, the Virginia House of Delegates, Congress again, and the U.S. House of Representatives over a period of eighteen years. Henry Clay served a total of twenty-six years in Congress, but that was split into six different tenures over forty-six years. [11]

Such anecdotal evidence is confirmed by a more comprehensive look. From 1790 through the 1860’s it was normal for at least 30% of House members to retire at the end of each Congress, and the figure sometimes topped 50%. Another 10-20% of those who ran would be defeated. At the beginning of each Congress, the average time of service in the House for the members was less than four years.[12]

Historian James Sterling Young describes the Congress of the early 1800’s this way. “Instead of a stable community membership, one finds a society of transients. Almost none of the members acquired homes in the capital, or established year-round residence there. They merely wintered in Washington [sessions often ran from December to early March], spending more time each year with constituents than with each other. Each new Congress, moreover, brought a host of new faces to the community, drastically reconstituting its membership every two years. . . Roughly two thirds of the Representatives on the roster of the 13th Congress, for example, did not serve for more than two terms, and two thirds of the Senators failed to serve more than one term – quite a few of them resigning before they completed even that.”[13] Young found that of the House members in the 13th Congress, 37% served only one term, and 27% only two. The same was true for Senators, with 17% serving no more than 2 years and 14% only three or four (i.e. they served less than a full term). Only 22% of Senators served two full terms.[14]

Money provided no incentive to stay in Congress. From 1789 to 1855 Congressional pay was only \$6-8 per day (and only days in the capital counted, not the entire year).[15] When Congress tried changing it to a salary of \$1,500 per year in 1816, the reaction of the voters was so strong (only 15 supporters of the law were reelected) that it was quickly repealed.[16] There were no fringe benefits and no staff to help with the duties. Members usually lived in crowded boardinghouses, and travel was by coach, horseback, or sailboat. The circumstances discouraged anyone whose preference was for a life of wealth and ease.

Circumstances began to change in mid-century, though the effect was not immediately easy to see. Railroads and steamboats made travel faster and more comfortable. Pay was increased, with a salary of \$1,500 beginning in 1855 and increasing to \$5,000 by 1865. How quickly the living quarters improved is harder to say. The son of one well-to-do congressman described them in the late 1850’s as “wretched hotels, or still less inviting boarding-houses”[17], but a member of the Washington social scene noticed that many Congressmen were renting houses and hosting fine parties.[18] Former Congressman George Julian, observing Washington in the 1880’s, claimed it had improved so much that residents just twenty years earlier “could have had no dream of the Washington of today”.[19]

The rules were also changed to allow members to hire staff at taxpayer expense, beginning in 1884 for the Senate and 1893 for the House. The number of allowable staff steadily increased as the 20th century progressed.[20]

Slowly these factors began to have an impact on the willingness of Congressmen to stay in Congress. By the 1870’s and continuing until about 1930 there was a clear, though gradual, increase in the number

of House members seeking reelection. Whereas before 1887 at least 25% (and often far more) of the House had always retired at the end of the term, after 1900 the number of retirements was always less than 20%.[21] The average service of Senators doubled during the latter part of the 19th century, and by the end of the 20th had nearly tripled.[22]

By the early 1900's Congress had become more professional and an inviting career (the pay was increased to \$7,500 in 1907[23]), especially for those who wished to make full use of Federal power. It will come as no surprise that the Progressive leaders in Congress, men who were determined to increase the size, power, and cost of government, showed an inclination to stay in office as long as possible. Robert LaFollette, Sr. served six years in the House before being defeated, then four terms in the Senate, which was ended only by his death. George Norris followed five terms in the House with five in the Senate, for a total of 40 years before finally being defeated. Albert Beveridge served only two Senate terms before being defeated in 1910, but his thirst for office led him to run again (unsuccessfully) in 1914 and 1922. William Borah was elected to six consecutive Senate terms, and was removed only by his death. Burton K. Wheeler spent four terms in the Senate before losing his primary. Hiram Johnson was elected to five straight Senate terms and died in office. None of these men ever left Congress voluntarily.[24] Herbert Croly's *The Promise of American Life*, which served as the Bible of the Progressive Movement and recommended radical changes to the structure as well as the size of American government, is entirely silent on term limits.[25]

Washington itself had become quite a pleasant place to live in the early 20th century. Two Washington political reporters pointed out in 1931 that "few House members, if defeated after any length of service, return to the small towns from which most of them come. They go to any lengths to remain in the capital. Those who have been servile enough to partisan or business interests get "lame-duck" jobs. Others become lobbyists, open law offices, or go into business in the capital. Even if they want to return home, their families, particularly their wives, object. The capital is an experience they never get over." [26]

The cost of government began to grow as Congressmen made it a career. During the years after the end of the war in 1865, annual government expenses had been held to \$350 million or less. This began to rise steadily toward the end of the nineteenth century and had more than doubled to \$734 million just before World War I. The number of civilian employees of the Federal government soared from 100,000 in 1881 to 239,000 in 1901 and 399,000 in 1916.[27]

Of course, all these trends merely became worse as time passed. Today it is not unusual for more than 90% of House members to run for reelection, and more than 90% of them to win. They receive a salary of \$174,000 per year,[28] plus health insurance and a pension (with cost-of-living adjustments), both subsidized by the taxpayer.[29] Most prefer to stay in Congress as long as they can get reelected (unless they leave to pursue an even more lucrative lobbying career).

The longer they stay, the more they adopt the Washington point of view – that Big Government is good, that government should provide special advantages for special interests, and that the greatest sins are to reduce government spending and to provide equal treatment for all. Federal spending, the deficit, and the debt have reached record highs. Federal regulation has become ever more intrusive. The Constitution, which prohibits much of what is being done, has been treated as a dead letter.

Benjamin Franklin foresaw what would happen if the government offered such positions of both wealth and power. "They will move heaven and earth to obtain it. . . . And of what kind are the men who will strive for this profitable pre-eminence, through all the bustle of cabal, the heat of contention, the infinite mutual abuse of parties, tearing to pieces the best of character? It will not be . . . the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their

selfish pursuits. These will thrust themselves into your Government and be your rulers.”[30] Does anyone doubt that this describes our current rulers?

### **Term limits as the solution**

An important step toward turning the tide would be imposing term limits on members of Congress. This would put an end to the professional congressman who serves 30, 40, or even 50+ years in Washington. It would break up the networks of long-serving Congressmen and lobbyists who now rule the capital. It would assist in the fight against ever-higher taxes and spending. It would help restore the sort of citizen legislature that the Founders intended.

These statements are not merely unsupported theory. Fifteen states placed term limits on their legislatures in the 1990's, and those states have served as experimental laboratories to determine the effect of term limits. Scholars have closely monitored and reported the results. These studies show that term limits will be an important part – indeed an essential part – of any plan to return to a citizen legislature.

In term limited states –

Legislators were more likely to have strong ideological beliefs, especially conservative beliefs, and less likely to listen to party leaders who urged them to surrender principle and compromise[31]

Taxes tend to be lower[32]

Although the studies did not agree on a consistent overall trend on spending, there were indications that pork-barrel spending was less likely under term limits[33]

Lobbyists found it difficult to deal with the constant turnover which made it impossible for them to develop long-term relationships with legislators. This was especially a problem for former legislators who retired to become lobbyists, since within a few years their valuable connections no longer existed among the new members.[34]

### **Conclusion**

Term limits alone will not turn a professional legislature into a citizen legislature. Big salaries, generous health and retirement benefits, year-long sessions, and large staffs are among the other issues that must be addressed. However, without term limits it is unlikely we will ever return to the citizen legislature that was a foundation of the system of government established by the Founders.

For well over a century the informal two-term limit on presidents was enough, but once it had been violated Americans responded by amending the Constitution. The informal congressional term limits that were once sufficient lost their force long ago. Now is the time to make them part of the Constitution.

[1] Pole, J. R., ed., *The Revolution in America, 1754-1788: Documents on the Internal Development of America in the Revolutionary Era* (Stanford University Press), 1970, pg. 532. These were one-year terms.

[2] Commager, Henry Steele, ed., *Documents of American History* (Appleton-Century-Crofts), 1949, pg. 112. These were also one-year terms.

[3] McClellan, James, and Bradford, M.E., eds., *Jonathan Elliot's Debates in the Several State Conventions on the Adoption of the Federal Constitution, Vol. III, Debates in the Federal Convention of 1787 as Reported by James Madison* (James River Press), 1989, pg. 353.

- [4] *Ibid.*, pg. 113, 373, 561.
- [5] *Ibid.*, pg. 344.
- [6] *Ibid.*, pg. 32, 106.
- [7] Boyd, Julian P., ed., *The Papers of Thomas Jefferson: Vol. XII, 1787-1788*, Jefferson to Madison, Dec. 20, 1787 (Princeton University Press), 1955, pg. 440.
- [8] Veit, Helen E., Bowling, Kenneth R., Bickford, Charlene Bangs, eds., *Creating the Bill of Rights* (The Johns Hopkins University Press), 1991, pg. 8. 26, and 34.
- [9] Glassman, Matthew Eric, *Congressional Careers: Service Tenure and Patterns of Member Service, 1789-2015* (Congressional Research Service), 2015, pg. 1.
- [10] Data compiled from *Bibliographical Directory of the American Congress, 1774-1961*, (Government Printing Office), 1961.
- [11] *Bibliographical Directory of the American Congress, 1774-1961*, pg. 703-04, 1252.
- [12] Glassman, *Congressional Careers*, pg. 3, 5, 6.
- [13] Young, James Sterling, *The Washington Community, 1800-1828* (Columbia University Press), 1966, pg.89.
- [14] *Ibid.*, pg. 90.
- [15] Brudnick, Ida, *Salaries of Members of Congress: Recent Actions and Historical Tables* (Congressional Research Service), 2015, pg. 13.
- [16] Sellers, Charles, *The Market Revolution: Jacksonian America, 1815-1846* (Oxford University Press), 1991, pg. 104-06.
- [17] Adams, Charles Francis, Jr., *Charles Francis Adams* (Chelsea House), 1980, pg. 106.
- [18] Laas, Virginia Jeans, ed., *Wartime Washington: The Civil War Letters of Elizabeth Blair Lee* (University of Illinois Press), 1991,pg. 363.
- [19] Julian, George W., *Political Recollections, From 1840 to 1872* (Negro Universities Press), 1884, pg. 371.
- [20] *Final Report of the Joint Committee on the Organization of Congress*, December 1993 (found online at <http://archives.democrats.rules.house.gov/Archives/jcoc2.htm> as of July 20, 2015).
- [21] Glassman, *Congressional Careers*, pg. 8.
- [22] *Ibid.*, pg. 6.
- [23] Brudnick, *Salaries*, pg. 13.
- [24] *Biographical Directory*, pg. 550, 573, 1126, 1184, 1393, and 1798.
- [25] Croly, Herbert, *The Promise of American Life* (E.P. Dutton & Co.), 1963 reprint of 1909 original. See for example, his discussion on Federal government reform in chapter 12.
- [26] Anonymous [Drew Pearson and Robert S. Allen], *Washington Merry-Go-Round* (Horace Liveright Inc.), 1931, pg. 228.
- [27] *The Statistical History of the United States from Colonial Times to the Present* (Fairfield Publishers), no date shown, pg. 710-11.
- [28] Brudnick, *Salaries*, pg. 15.
- [29] Brudnick, Ida A., *Congressional Salaries and Allowances: In Brief* (Congressional Research Service), 2014, pg. 3, and Isaacs, Katelin P., *Retirement Benefits for Members of Congress* (Congressional Research Service), 2014.
- [30] McClellan and Bradford, eds., *Madison's Notes*, pg. 52.
- [31] Berman, David, *The Effects of Legislative Term Limits in Arizona* (Morrison Institute for Public Policy), 2004, pg. 2, 4, 12, ; Bowser, Jennifer Drage, *The Effects of Legislative Term Limits*, The Book of the States, The Council of State Governments), 2005, pg. 113-14; Caress, Stanley and Kunioka, Todd, *Term Limits and Their Consequences* (State University of New York Press), 2012, pg. 131-32; Lewis, Daniel C., *Dissecting the Relationship Between Term Limits and Fiscal Policy*, (online at [2012sppconference.rice.edu/files/2012/02/Lewis-SPPC-20121.pdf](http://2012sppconference.rice.edu/files/2012/02/Lewis-SPPC-20121.pdf) as of July 28, 2015), pg. 3 ; Berman, David, Kousser, Thad and Straayer, John, chapters 7 and 10 in Kurtz, Karl T., Cain, Bruce, and Niemi, Richard G., eds, *The Case for Term Limits* (The University of Michigan Press), 2007, pg. 111-16, 156.
- [32] Krol, Robert, "The Role of Fiscal and Political Institutions in Limiting the Size of the State Government", *Cato Journal*, Vol. 27, No. 23 (Fall 2007), pg. 442-43; Lewis, Daniel C., *Dissecting the Relationship Between Term Limits and Fiscal Policy*, pg. 4; Lewis, William, *The Impact of Legislative Term Limits on State Fiscal Policy*, (online at [www.antolin-davies.com/theses/lewis.pdf](http://www.antolin-davies.com/theses/lewis.pdf) as of July 28, 2015), pg. 22-23.
- [33] Powell, Lynda, Niemi, Richard G., and Smith, Michael, chapter 3 in Kurtz, Karl T., Cain, Bruce, and Niemi, Richard G., eds, *The Case of Term Limits*, pg. 47; Lewis, William, *The Impact of Legislative Term Limits on State Fiscal Policy*, pg. 13 and 20.
- [34] Berman, David, *The Effects of Term Limits in Arizona*, pg. 14-15; Bowser, Jennifer Drage, *The Effects of Legislative Term Limits*, pg. 115; Caress, Stanley and Kunioka, Todd, *Term Limits and Their Consequences* (State University of New York Press), 2012, pg. 12 and 146; Mooney, Christopher Z., in Kurtz, Karl T., Cain, Bruce, and Niemi, Richard G., eds., *The Case of Term Limits*, pg. 126-31.