

NLWJC- Kagan

Counsel - Box 019 - Folder 005

Term Limits [2]

412TH STORY of Level 1 printed in FULL format.

Copyright 1992 Cable News Network, Inc.
All rights reserved
CNN

1992 Presidential Debates

October 19, 1992

Transcript # 10.- 3

TYPE: Analysis

SECTION: Election; News

LENGTH: 1641 words

HEADLINE: Clinton's Poll Lead Widens After Second Debate

BYLINE: CATHERINE CRIER; WILLIAM SCHNEIDER

HIGHLIGHT:

Excerpts of last week's presidential debate in Richmond, Virginia, are presented. The majority of those polled felt that Bill Clinton was the clear winner of the second debate. Bush is at his lowest in polls.

BODY:

BERNARD SHAW, Anchor: And since that time, CNN has been bringing you specialized coverage of all these debates. Now in 1992, let's step back in recent times and take you back to the second presidential debate at the University of Richmond in Richmond, Virginia. This is what it looked like and sounded like in these excerpts.

1st AUDIENCE MEMBER: How has the national debt personally affected each of your lives?

ROSS PEROT: It caused me to disrupt my private life and my business to get involved in this activity. That's how much I care about it. And believe me, if you knew my family and if you knew the private life I have, you would agree in a minute that that's a whole lot more fun than getting involved in politics.

Pres. GEORGE BUSH: You ought to be in the White House for a day and hear what I hear and see what I see and read the mail I read and touch the people that I touch from time to time. But I don't think it's fair to say 'you haven't had cancer, therefore you don't know what it's like.' I don't think it's fair to say, you know, whatever it is, if you haven't been hit by it personally.

Gov. BILL CLINTON: I see people in my state, middle class people, their taxes have gone up in Washington and their services have gone down while the wealthy have gotten tax cuts. I have seen what's happened in this last four years when, in my state, people lose their jobs, there's a good chance I'll know them by their name.

CNN Transcripts, October 19, 1992

2nd AUDIENCE MEMBER: Do you attribute the rising cost of health care to the medical profession itself? And what specific proposals do you have to tackle this problem?

Gov. CLINTON: We have to have in my judgment a drastic simplification of the basic health insurance policies of this country. It'll be very comprehensive for everybody. Employers would cover their employees, government would cover the unemployed.

Mr. PEROT: Now there are all kinds of good ideas, brilliant ideas, terrific ideas on health care. None of them ever get implemented because, let me give you an example, a senator runs every six years, he's got to raise 20,000 bucks a week to have enough money to run. Who's he going to listen to - us or the folks running up and down the aisles with money, the lobbyists, the pack money? He listens to them. Who do they represent? Health care industry, not us.

Pres. BUSH: And my program is this - keep the government as far out of it as possible, make insurance available to the poorest of the poor through vouchers, next range on the income bracket through tax credit and get on about the business of pooling insurance.

3rd AUDIENCE MEMBER: Please state your position on term limits. And if you are in favor of them, how will you get them enacted?

Pres. BUSH: I strongly support term limits for members of the United States Congress. I believe it would return the government closer to the people the way that Ross Perot is talking about. The president's terms are limited to two, a total of eight years. What's wrong with limiting the terms of members of Congress to 12?

Gov. CLINTON: I know they're popular, but I'm against them. I'll tell you why. I believe, number one, it would pose a real problem for a lot of smaller states in the Congress who would have enough trouble now making sure their interests are heard. Number two, I think it would increase the influence of unpaid-unelected staff members in the Congress who have too much influence already.

Mr. PEROT: We have got to reform government. If you put term limits in and don't reform government, you won't get the benefits you thought. It takes both. So we need to do the reforms and the term limits, and after we reform it it won't be a lifetime career opportunity. Good people will go serve and then go back to their homes.

CATHERINE CRIER, Anchor: Joining us now, public opinion analyst Bill Schneider. Bill, we are heading into the third debate. What do your polls show happened in the first two as regards the voters?

WILLIAM SCHNEIDER, Public Opinion Analyst: Well, Catherine, our poll after the first presidential debate on October 11 showed Perot the clear winner, Clinton second and Bush a poor third. Now in our tracking polls following the second debate last Thursday night, we asked which candidate did the best job. A solid majority said Clinton did the best job, with Bush and Perot far behind.

Now, let's see what effect that debate had on the vote. Before the debate, Clinton was 13 points ahead of George Bush. Most viewers, as we saw, thought Clinton won. But Clinton's standing hardly changed. The real impact was on

CNN Transcripts, October 19, 1992

George Bush who dropped four points. Clinton is now 18 points ahead of Bush. And George Bush is at 30 percent - Catherine, that's the lowest George Bush has been in the polls all year.

CRIER: Well, Bill, specifically looking at the issues, how are the issues playing in all of this and, in particular, anything special working for President Bush.

SCHNEIDER: Well, Catherine, there is one issue that could help President Bush. In his closing statement in the last debate President Bush asked, 'If there were a major international or national crisis, which of the presidential candidates would you choose to handle it?' Now we asked voters precisely the same question as President Bush, and a clear majority - you'll see the results - a clear majority said President Bush would be the best to handle it. Bush was trying to do what Ronald Reagan did in his closing statement in the 1980 debate. Remember?-- 'Are you better off than you were four years ago?' That statement recasts the 1980 campaign, away from Reagan and onto Carter's record. Bush wants to recast this election away from himself and onto Bill Clinton. Our polls suggest he is getting the answer he was looking for, but it's not having the impact on the campaign. That's because, unlike Reagan, Bush is the incumbent. He has to run on his record, just as Jimmy Carter had to do in 1980.

CRIER: Well, Bill, during the debates, you'll be working and you'll be coming back later on to take a look at how some of the moments in this third presidential debate played with the public. Tell us a little bit about that analysis and how it works.

SCHNEIDER: Well, Catherine, with the support of the Marco Foundation, CNN has asked the Gallup organization to recruit several hundred people from all over the country who are planning to watch this evening's debate. Our sample was selected at random. It includes people of all social and economic backgrounds and political beliefs.

Our viewer participants will be dialing from their home telephones to a central computer in Omaha, Nebraska. As they watch the debate, they will punch numbers on their touch-tone telephone to let us know how they feel about what the candidates are saying. If they feel strongly positive about what they are hearing and seeing, they can punch a nine. If they strongly negative, then one is the number they hit. If their feelings are somewhere in the middle, then they can press any number between one and nine. The Omaha computer will compile their responses and send them to us here at CNN in Atlanta where another computer will generate graphs like this one. After the debate we will use the graphs to show you how people responded to key moments in the debate.

Each line on the graph represents the current feeling of a group of voters toward whoever is speaking. As a line moves up it means that group of people likes what it is hearing. As it moves down it means they dislike what's being said. There will be three lines representing the views of different groups of voters. One line shows the responses of those who support George Bush, one shows how supporters of Bill Clinton feel, the third line will show either the responses of Ross Perot supporters or so-called 'swing voters.' Swing voters are people who are either undecided or wavering in their support of any of the three candidates.

SHAW: Joining us now, a man who can give us even further insight on this

CNN Transcripts, October 19, 1992

operation, David Hughes. He's with a research organization in Chapel Hill, North Carolina. Mr. Hughes, why is this such a ground breaking way of polling people?

DAVID HUGHES, Realtime Decision Researcher: Well, Bernie, this is the first time that anyone has been able to actually get continuous responses from a random sample of people across the United States. Tonight we'll be sampling 400 people and in fractions of a second we'll be updating their responses, and so we'll be able to know where they stand on each issue.

SHAW: How does the data differ from other data that you've collected in other methods of polling?

Mr. HUGHES: Well, the general poll requires people to kind of reflect back on where they were on some event in the news or in the debate, but here we get it continuously. So we get a gesture, a word or any little body language which is more than just the statement of the issue.

SHAW: Do these folks represent a cross section of the American voters? And if so, how do you know that?

Mr. HUGHES: Well, Bernie, they do because they were selected by the Gallup organization in Princeton, which is the premiere international polling organization. And they used a random digit sample, and the people are proportional to those represented in the states and the counties. So they are representing the entire United States.

SHAW: Is there any way people at home in the privacy of their living rooms can cook their responses?

Mr. HUGHES: Well, I don't know how they would do that. We have given them very strict instructions and they are to reply only their own opinion and not sample those of the people sitting in the room. But I think they will be honest. We found that the first time around they were.

SHAW: David Hughes of Decision Labs, Limited, of Chapel Hill, North Carolina, thanks very much.

CNN will be bringing you a 30-minute special report on our debate analysis called 'The Voter's Choice.' That's tomorrow at 5pm eastern, and it will be replayed tomorrow at 8:30pm eastern. I said 'The Voter's Choice,' I should have said 'The Voter's Voice.' We'll be right back.

The preceding text has been professionally transcribed. However, although the text has been checked against an audio track, in order to meet rigid distribution and transmission deadlines, it has not yet been proofread against videotape.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: October 20, 1992

The New York Times, October 20, 1992

Q: Mr. Perot, one minute.

PEROT: Well, nobody's gotten into the real issue yet on the savings and loan. Again, nobody's got a business background, I guess. The whole problem came up in 1984. The President of the United States was told officially it was a \$20 billion problem. These crooks -- now Willie Sutton would have gone to own a savings and loan rather than rob banks because you -- he robbed bank because that's where the money is -- only the saving and loan is where the money was. Yeah. In 1984, they were told. I believe the Vice President was in charge of deregulation. Nobody touched that tar baby till the day after elections in 1988 because they were flooding both parties with crooked PAC money and it was in many cases, stolen PAC money.

Now you and I never got a ride on a lot of these yachts and fancy things it bought, but you and I are paying for it. And they buried it till right after the election. Now if you believe The Washington Post and you believe this extensive study that's been done -- and I'm reading -- right after election day this year they're going to hit us with 100 banks -- it'll be a \$100 billion problem. Now if that's true, just tell me now. Yeah, I'm grown up, I can deal with it, I'll pay my share. But just tell me know. Don't bury it until after the election twice. I say that to both political parties. The people deserve that since we have to pick up the tab. You got the PAC money, we'll pay the tab. Just tell us. Q: All right, Mr. Perot, the next question -- we're going into a new round here, on category just called differences and the question goes to you Mr. Perot and Gene will ask it. Gene?

Reforming Government

Q: Mr. Perot, aside from the deficit, what Government policy or policies do you really want to do something about? What really sticks in your craw about conditions in this country? Beside the deficit, that you would want to fix as President?

PEROT: Well, if you watched my television show the other night, you saw it and if you watch it Thursday, Friday, Saturday of this week you'll get more. So, a shameless plug there, Mr. President. But, in a nutshell, we've got to reform our Government or we won't get anything done. We have a Government that doesn't work. All these specific examples I'm giving tonight, if you had a business like that, they'd be leading you away, boarding up the doors.

We have a Government that doesn't work. It's supposed to come from the people; it comes at the people. The people need to take their Government back. You've got to reform Congress. They've got be servants of the people again. You've got to reform the White House. We've got to turn this thing around and it's a long list of specific items. And I've covered it again and again in print and on television, but very specifically, the key thing is to turn the Government back to the people and take it away from special interests and have people go to Washington to serve.

Who can give themselves a 23 percent pay raise anywhere in the world except Congress? Who would have 1,200 airplanes worth \$2 billion a year just to fly around in? I don't have a free reserved parking place at National Airport, why should my servants? I don't have an indoor gymnasium and an indoor tennis court; an indoor every other thing they can think of. I don't have as place where I can go make free TV to send to my constituents to try to blame Washington -- to

The New York Times, October 20, 1992

elect me the next time. And I'm paying for all that for those guys. I'm going to be running an ad pretty soon that shows -- they promised us they were going to hold the line on spending, a tax and budget summit; and I'm going to show how much they have increased this little stuff they do for themselves and it is silly putty folks, and the American people have had enough of it.

Step 1, if I get up there, we're going to clean that up. You say how can I get Congress to do that? I have millions of people at my shoulder -- shoulder to shoulder with me, and we will see it done at warp speed. Because it's wrong. It's just -- we've turned the country upside down.

Q: Governor Clinton, you have one minute. Governor.

CLINTON: I would just point out on the -- the point Mr. Perot made. I agree that we need to cut spending in Congress. I've called for a 25 percent reduction in Congressional staffs and expenditures. But the White House staff increased its expenditures by considerably more than Congress has in the last four years under the Bush Administration. And Congress has actually spent a billion dollars less than President Bush asked them to spend. Now when you outspend Congress, you're really swinging.

That, however, is not my only passion. The real problem in this country is that most people are working hard and falling farther behind. My passion is to pass a jobs program and get incomes up with an investment incentive program to grow jobs in the private sector, to waste less public money and invest more, to control health care costs and provide for affordable health care for all Americans. And to make sure we've got the best trained work force in the world. That is my passion. We've got to get this country growing again and this economy strong again or we can't bring down the deficit. Economic growth is the key to the future of this country.

Q: President Bush, one minute.

BUSH: On Government reform?

Q: Sir?

BUSH: Government reform?

Q: To -- yes, exactly, well to respond to what the -- the subject that Mr. Perot mentioned.

BUSH: Well -- how about this for a Government reform policy? Reduce the White House staff by a third after or at the same time the Congress does the same thing for their staff; term limits for members of the United States Congress; give the Government back to the people. Let's do it that way. The President has term limits. Let's -- let's limit some of these guys sitting out here tonight. Term limits and then how about a balanced budget amendment to the Constitution. Forty-three -- more than that have -- states have it, I believe. Let's try that.

And you want to do something about all this extra spending that concerns Mr. Perot and me? O.K., how about a line item veto. Forty-three governors have that. And give it to the President and if the Congress isn't big enough to do it, let the President have a shot at this excess spending. A line item veto, that means you can take a line and cut out some of the pork out of a meaningful bill.

The New York Times, October 20, 1992

Governor Clinton keeps hitting me on vetoing legislation. Well that's the only protection the taxpayer has against some of these reckless pork programs up there. And I'd rather be able to just line it right out of there and get on about passing some good stuff but leave out the garbage.

Q: All right, we have --

BUSH: Line-item veto. This is a good reform program for you.

Q: All right. A -- next question goes to Governor Clinton. You have -- you have two minutes, Governor, and Susan will ask it.

Who Will Pay More?

Q: Governor Clinton, you said that you will raise taxes on the rich, people with incomes of \$200,000 a year or higher. A lot of people are saying that you will have to go lower than that. Much lower. Will you make a pledge tonight below which an income level that you will not go below? I'm looking for numbers, Sir, not just a concept.

CLINTON: My plan -- you can read my plan. My plan says that we want to raise marginal incomes on family incomes above \$200,000 from 31 to 36 percent; that we want to ask foreign corporations simply to pay the same percentage of taxes on their income that American corporations pay in America. That we want to use that money to provide over \$100 billion in tax cuts for investment in new plant and equipment, for small business, for new technologies and for middle-class tax relief.

Now, I'll tell you this: I will not raise taxes on the middle class to pay for these programs. If the money does not come in there to pay for these programs, we will cut other Government spending or we will slow down the phase-in of the programs. I am not going to raise taxes on the middle class to pay for these programs. Now, furthermore, I am not going to tell you read my lips. On anything. Because I cannot foresee what emergencies might develop in this country. And the President said never never never -- would never would he raise taxes in New Jersey and within a day Marlin Fitzwater, his spokesman, said Now, that's not a promise. So I think even he has learned that you can't say read my lips because you can't know what emergencies might come up.

But I can tell you this. I'm not going to raise taxes on middle-class Americans to pay for the programs I recommended. Read my plan. And you can -- you know how you can trust me about that? Because you know, in that first debate, Mr. Bush made some news. He had just said Jim Baker was going to be Secretary of State but in the first debate he said, No, now he's going to be responsible for domestic economic policy. Well, I'll tell you. I'll make some news in the third debate. The person responsible for domestic economic policy in my administration will be Bill Clinton. I'm going to make those decisions. And I won't raise taxes on the middle-class to pay for my programs.

Q: President Bush, you have one minute.

BUSH: That's what worries me. That he's going to be responsible. He's going to do -- he would do -- and he would do for the United States what he's done to Arkansas. He would do for the United States what he's done to Arkansas. We do not want to be the lowest of the low. We are not a nation in decline. We are a

The New York Times, October 20, 1992

rising nation. Now, my problem is I heard what he said. He said I want to raise -- take it from the rich. Raise \$150 billion from the rich to get it -- to get \$150 billion in new taxes, you got to go down to the buy that's making \$36,600. And if you want to pay for the rest of his plan, all the other spending programs, you're going to sock it to the working man. So when you hear tax the rich Mr. and Mrs. America, watch your wallet. Lock your wallet; he's coming right after you. Just like Jimmy Carter did and just like you're going to get -- you're going to end up with interest rates at 21 percent and you're going to have inflation going through the roof. Yes we're having tough times, but we do not need to go back to the failed policies of the past when you had a Democratic President and a spendthrift Democratic Congress.

Q: Mr. Perot.

CLINTON: You permitted Mr. Bush to break the rules. He said to defend the honor of the country. What about the honor of my state? We rank first in the country in job growth. We got the lowest spending state and local in the country and the second lowest tax burden, and the difference between Arkansas and the United States is that we're going in the right direction and this country is going in the wrong direction, and I have to defend the honor of my state.

Q: We've got a wash, according to my calculation we have a wash and we go to Mr. Perot for one minute. In other words, it's a violation of the rule, that's what I meant, Mr. Perot.

PEROT: So I'm the only one that's untarnished at this point.

Q: Right, you're clean, you're clean.

CLINTON: Go ahead, Ross, go ahead.

PEROT: I'm sure I'll do it before it's over. The key thing is, see, we all come up with images. Images don't fix anything. I think -- you know, I'm starting to understand it, you stay around this long enough, you think about it -- if you talk about it in Washington, you think you did it. If you've been on television about it, you think you did it. What we need is people to stop talking and start doing. Our real problem here is they have -- both have plans that will not work. The Wall Street Journal said your numbers don't add up. And you take it out on charts, you look at all the studies that different groups have done, you go out four, five, six years, we're still drifting along with a huge deficit.

So let's come back to harsh reality. And what I -- you know, everybody says, "Gee, Perot, you're tough." I'm saying, well, this is not as tough as World War II and it's not as tough as the Revolution. And it's fair-shared sacrifice to do the right thing for our country and for our children. And it will be fun, if we all work together to do it.

Q: All right, this is the last question and it goes to President Bush for a two-minute answer, and it will be asked by Helen.

Standing in the Polls

Q: Mr. President, why have you dropped so dramatically in the leadership polls from the high 80's to the 40's? And you have said that you will do

Report is Completed

Turn off your software print command

Press ENTER

LEGI-SLATE Report for the 104th Congress Thu, March 23, 1995 2:31pm (EST)

Q U I C K B I L L

H.J.Res. 2 by Rep. Bill McCollum (R-FL)

Constitution of the United States, Amendment - Terms of Office (Contract with America)

Legislative History:

01/04/95 -- In The HOUSE

Introduced by MCCOLLUM (R-FL)

Referred to House Committee on the Judiciary

01/09/95 -- In The HOUSE

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-149)

01/11/95 -- In The HOUSE

Remarks by FOX (R-PA) in "Congressional Record" (CR Page H-182)

01/13/95 -- In The HOUSE

Remarks by EHLERS (R-MI) in "Congressional Record" (CR Page H-234)

01/17/95 -- In The HOUSE

Remarks by GOSS (R-FL) in "Congressional Record" (CR Page H-247)

01/19/95 -- In The HOUSE

Remarks by CHAMBLISS (R-GA) in "Congressional Record" (CR Page H-333)

01/20/95 -- In The HOUSE

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-413)

01/23/95 -- In The HOUSE
Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-482)

01/24/95 -- In The HOUSE
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-546)
Remarks by LAHOOD (R-IL) in "Congressional Record" (CR Page H-550)

01/24/95 -- In The SENATE
Remarks by MCCONNELL (R-KY) in "Congressional Record" (CR Page S-1456)

01/25/95 -- In The HOUSE
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-595)

01/25/95 -- In The SENATE
Remarks by BYRD, ROBERT (D-WV) in "Congressional Record" (CR Page S-1498)

01/26/95 -- In The HOUSE
Remarks by BONO (R-CA) in "Congressional Record" (CR Page H-693)

01/27/95 -- In The HOUSE
Remarks by WATTS (R-OK) in "Congressional Record" (CR Page H-806)
Remarks by LINDER (R-GA) in "Congressional Record" (CR Page H-808)

01/30/95 -- In The HOUSE
Remarks by HAYWORTH (R-AZ) in "Congressional Record" (CR Page H-844)

01/31/95 -- In The HOUSE
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-897)

02/01/95 -- In The HOUSE
Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-975)
Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-1044)
Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-1044)

02/02/95 -- In The HOUSE
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-1075)
Remarks by FOX (R-PA) in "Congressional Record" (CR Page H-1075)
Remarks by SANFORD (R-SC) in "Congressional Record" (CR Page H-1076)
Remarks by CAMP (R-MI) in "Congressional Record" (CR Page H-1082)

02/03/95 -- In The HOUSE
Remarks by GUNDERSON (R-WI) in "Congressional Record" (CR Page H-1159)
Remarks by DEAL (D-GA) in "Congressional Record" (CR Page H-1159)
Remarks by MYRICK (R-NC) in "Congressional Record" (CR Page H-1165)
Remarks by KINGSTON (R-GA) in "Congressional Record" (CR Page H-1165)

02/06/95 -- In The HOUSE
Remarks by BALLENGER (R-NC) in "Congressional Record" (CR Page H-1218)

02/07/95 -- In The HOUSE
Remarks by BARTLETT (R-MD) in "Congressional Record" (CR Page H-1291)
Remarks by FOLEY (R-FL) in "Congressional Record" (CR Page H-1297)

02/08/95 -- In The HOUSE
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-1376)

02/09/95 -- In The HOUSE
Remarks by BARTLETT (R-MD) in "Congressional Record" (CR Page H-1467)

02/10/95 -- In The HOUSE

Remarks by HAYWORTH (R-AZ) in "Congressional Record" (CR Page H-1559)

02/13/95 -- In The HOUSE
Remarks by COBLE (R-NC) in "Congressional Record" (CR Page H-1619)

02/14/95 -- In The HOUSE
Remarks by KINGSTON (R-GA) in "Congressional Record" (CR Page H-1698)

02/15/95 -- In The HOUSE
Remarks by GUTKNECHT (R-MN) in "Congressional Record" (CR Page H-1763)

02/16/95 -- In The HOUSE
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-1892)
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-1892)
Remarks by RIGGS (R-CA) in "Congressional Record" (CR Page H-1893)
Remarks by FOX (R-PA) in "Congressional Record" (CR Page H-1893)

02/21/95 -- In The HOUSE
Remarks by CHABOT (R-OH) in "Congressional Record" (CR Page H-1909)

02/22/95 -- In The HOUSE
Remarks by ALLARD (R-CO) in "Congressional Record" (CR Page H-1971)
Remarks by TIAHRT (R-KS) in "Congressional Record" (CR Page H-1973)
Remarks by TIAHRT (R-KS) in "Congressional Record" (CR Page H-2032)
Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-2041)
Remarks by BENTSEN (D-TX) in "Congressional Record" (CR Page H-2041)
Remarks by KINGSTON (R-GA) in "Congressional Record" (CR Page H-2041)

02/23/95 -- In The HOUSE
Remarks by SOLOMON (R-NY) in "Congressional Record" (CR Page H-2070)

02/24/95 -- In The HOUSE
Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-2179)

02/27/95 -- In The HOUSE
Remarks by WELLER (R-IL) in "Congressional Record" (CR Page H-2231)

02/28/95 -- In The HOUSE
Public mark-up held by House Committee on the Judiciary
Amendment offered by MCCOLLUM (R-FL) in the nature of a substitute,
exempting currently sitting lawmakers from retroactive application of
the amendment
Amendment offered by FRANK, BARNEY (D-MA) to amendment by MCCOLLUM
(R-FL) striking the retroactivity provision
Rejected amendment by FRANK, BARNEY (D-MA) to amendment by MCCOLLUM
(R-FL) (Vote No. 7292: 15-20)
Amendment offered by GEKAS (R-PA) to amendment by MCCOLLUM (R-FL) including
the consecutiveness provision
Substitute amendment offered by GOODLATTE (R-VA) to amendment by GEKAS
(R-PA) considering as one full term time spent substituting for a
retired, dead, or impeached lawmaker
Agreed to substitute amendment by GOODLATTE (R-VA) to amendment by GEKAS
(R-PA) (Vote No. 7295: 21-13)
Agreed to amendment by GEKAS (R-PA) to amendment by MCCOLLUM (R-FL)
(by Voice Vote)
Amendment offered by SCOTT (D-VA) to amendment by MCCOLLUM (R-FL) inserting
language to let states enact a term limit less than that provided by
Congress
Point of order by FRANK, BARNEY (D-MA) that Scott's amendment is not
germane to the underlying resolution

Point of order by MOORHEAD (R-CA) overruled by the chair (by Voice Vote)
Substitute amendment offered by MCCOLLUM (R-FL) to amendment by SCOTT
(D-VA) preempting state-imposed term limits
Agreed to substitute amendment by MCCOLLUM (R-FL) to amendment by SCOTT
(D-VA) (Vote No. 7297: 24-11)
Agreed to amendment by SCOTT (D-VA) to amendment by MCCOLLUM (R-FL)
(by Voice Vote)
Agreed to amendment by MCCOLLUM (R-FL) (Vote No. 7299: 20-14) in the
nature of a substitute
Ordered reported without recommendation by House Committee on the
Judiciary (Vote No. 7300: 21-14) as amended
Remarks by HOBSON (R-OH) in "Congressional Record" (CR Page H-2316)

03/01/95 -- In The HOUSE

Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-2395)
Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-2397)

03/02/95 -- In The HOUSE

Remarks by TIAHRT (R-KS) in "Congressional Record" (CR Page H-2490)

03/03/95 -- In The HOUSE

Remarks by TIAHRT (R-KS) in "Congressional Record" (CR Page H-2585)
Remarks by NORWOOD (R-GA) in "Congressional Record" (CR Page H-2648)

03/06/95 -- In The HOUSE

Report filed by House Committee on the Judiciary (H.Rept. 104-67)
Placed on House Union Calendar (House 27)
Ordered printing of amendment(s) by FOWLER (R-FL) in the nature of a
substitute (CR Page H-2720)
Remarks by CHABOT (R-OH) in "Congressional Record" (CR Page H-2659)

03/07/95 -- In The HOUSE

Ordered printing of amendment(s) by CRANE (R-IL) in the nature of a
substitute (CR Page H-2811)
Ordered printing of amendment(s) by FRANK, BARNEY (D-MA) requiring
elections prior to this article becoming operative to be taken into
account when determining eligibility for election (CR Page H-2812)
Ordered printing of amendment(s) by INGLIS (R-SC) in the nature of a
substitute (CR Page H-2812)
Ordered printing of amendment(s) by MCCOLLUM (R-FL) in the nature of a
substitute (CR Page H-2812)
Ordered printing of amendment(s) by MCCOLLUM (R-FL) in the nature of a
substitute (CR Page H-2812)
Ordered printing of amendment(s) by MCCOLLUM (R-FL) in the nature of a
substitute (CR Page H-2812)
Ordered printing of amendment(s) by PETERSON, PETE (D-FL) in the nature of
a substitute (CR Page H-2812)
Ordered printing of amendment(s) by PETERSON, PETE (D-FL) in the nature of
a substitute (CR Page H-2812)
Remarks by MCCOLLUM (R-FL) in "Congressional Record" (CR Page H-2726)
Remarks by HOBSON (R-OH) in "Congressional Record" (CR Page H-2729)

03/08/95 -- In The HOUSE

Ordered printing of amendment(s) by BROWNBACK (R-KS) in the nature of a
substitute (CR Page H-2893)
Ordered printing of amendment(s) by DEAL (D-GA) in the nature of a
substitute (CR Page H-2893)
Ordered printing of amendment(s) by DEAL (D-GA) in the nature of a
substitute (CR Page H-2893)
Ordered printing of amendment(s) by DINGELL (D-MI) in the nature of a

substitute (CR Page H-2893)
Ordered printing of amendment(s) by DINGELL (D-MI) in the nature of a
substitute (CR Page H-2893)
Ordered printing of amendment(s) by FRANK, BARNEY (D-MA) in the nature of a
substitute (CR Page H-2893)
Ordered printing of amendment(s) by FRANK, BARNEY (D-MA) in the nature of a
substitute (CR Page H-2893)
Ordered printing of amendment(s) by FRANK, BARNEY (D-MA) in the nature of a
substitute (CR Page H-2893)
Ordered printing of amendment(s) by FRANK, BARNEY (D-MA) in the nature of a
substitute (CR Page H-2894)
Ordered printing of amendment(s) by GOSS (R-FL) in the nature of a
substitute (CR Page H-2894)
Ordered printing of amendment(s) by HALL, RALPH (D-TX) in the nature of a
substitute (CR Page H-2894)
Ordered printing of amendment(s) by HEFLEY (R-CO) in the nature of a
substitute (CR Page H-2894)
Ordered printing of amendment(s) by HILLEARY (R-TN) in the nature of a
substitute (CR Page H-2894)
Ordered printing of amendment(s) by HILLEARY (R-TN) in the nature of a
substitute (CR Page H-2894)
Ordered printing of amendment(s) by LIVINGSTON (R-LA) in the nature of a
substitute (CR Page H-2894)
Ordered printing of amendment(s) by WATERS (D-CA) in the nature of a
substitute (CR Page H-2894)
Remarks by CHABOT (R-OH) in "Congressional Record" (CR Page H-2814)
Extensions to Remarks by DEAL (D-GA) in "Congressional Record" (CR Page
E-546)

03/09/95 -- In The HOUSE

Public hearing held by House Committee on Rules
Ordered printing of amendment(s) by HOYER (D-MD) in the nature of a
substitute (CR Page H-2989)
Ordered printing of amendment(s) by ORTON (D-UT) in the nature of a
substitute (CR Page H-2989)
Ordered printing of amendment(s) by ORTON (D-UT) in the nature of a
substitute (CR Page H-2990)
Ordered printing of amendment(s) by ORTON (D-UT) in the nature of a
substitute (CR Page H-2990)
Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-2897)
Remarks by GUTIERREZ (D-IL) in "Congressional Record" (CR Page H-2898)

03/10/95 -- In The HOUSE

Remarks by DUNN (R-WA) in "Congressional Record" (CR Page H-2991)
Remarks by GUTIERREZ (D-IL) in "Congressional Record" (CR Page H-2992)

03/13/95 -- In The HOUSE

Remarks by STEARNS (R-FL) in "Congressional Record" (CR Page H-3051)
Remarks by FURSE (D-OR) in "Congressional Record" (CR Page H-3052)
Remarks by FURSE (D-OR) in "Congressional Record" (CR Page H-3065)
Remarks by ROHRBACHER (R-CA) in "Congressional Record" (CR Page H-3065)
Remarks by SCHROEDER (D-CO) in "Congressional Record" (CR Page H-3065)

03/14/95 -- In The HOUSE

Remarks by FURSE (D-OR) in "Congressional Record" (CR Page H-3088)
Remarks by GUTKNECHT (R-MN) in "Congressional Record" (CR Page H-3092)

03/15/95 -- In The HOUSE

Remarks by ENSIGN (R-NV) in "Congressional Record" (CR Page H-3157)
Remarks by GUTIERREZ (D-IL) in "Congressional Record" (CR Page H-3157)

Remarks by METCALF (R-WA) in "Congressional Record" (CR Page H-3273)
Extensions to Remarks by DICKEY (R-AR) in "Congressional Record"
(CR Page E- 602)

03/16/95 -- In The HOUSE

Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-3279)
Remarks by GUTIERREZ (D-IL) in "Congressional Record" (CR Page H-3280)

03/21/95 -- In The HOUSE

Remarks by FRANK, BARNEY (D-MA) in "Congressional Record" (CR Page H-3330)
Remarks by BARTLETT (R-MD) in "Congressional Record" (CR Page H-3336)
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-3336)

03/22/95 -- In The SENATE

Remarks by LEAHY (D-VT) in "Congressional Record" (CR Page S-4405)

03/22/95 -- In The HOUSE

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-3419)
Remarks by FRANKS (R-NJ) in "Congressional Record" (CR Page H-3426)
Remarks by MCCOLLUM (R-FL) in "Congressional Record" (CR Page H-3552)
Remarks by SMITH (R-WA) in "Congressional Record" (CR Page H-3552)
Remarks by FIELDS, CLEO (D-LA) in "Congressional Record" (CR Page H-3554)
Remarks by MCCOLLUM (R-FL) in "Congressional Record" (CR Page H-3554)

Q U I C K B I L L

H.J.Res. 3 by Rep. Bob Inglis (R-SC)

Constitution of the United States, Amendment - Terms of Office (Contract with America)

Legislative History:

01/04/95 -- In The HOUSE

Introduced by INGLIS (R-SC)

Referred to House Committee on the Judiciary

01/11/95 -- In The HOUSE

Remarks by FOX (R-PA) in "Congressional Record" (CR Page H-182)

01/23/95 -- In The HOUSE

Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-482)

01/24/95 -- In The HOUSE

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-546)

Remarks by LAHOOD (R-IL) in "Congressional Record" (CR Page H-550)

01/24/95 -- In The SENATE

Remarks by MCCONNELL (R-KY) in "Congressional Record" (CR Page S-1456)

01/25/95 -- In The HOUSE

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-595)

01/26/95 -- In The HOUSE

Remarks by BONO (R-CA) in "Congressional Record" (CR Page H-693)

01/27/95 -- In The HOUSE

Remarks by WATTS (R-OK) in "Congressional Record" (CR Page H-806)

Remarks by LINDER (R-GA) in "Congressional Record" (CR Page H-808)

01/30/95 -- In The HOUSE

Remarks by HAYWORTH (R-AZ) in "Congressional Record" (CR Page H-844)

01/31/95 -- In The HOUSE

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-897)

02/01/95 -- In The HOUSE

Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-975)

Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-1044)

Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-1044)

02/02/95 -- In The HOUSE

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-1075)

Remarks by FOX (R-PA) in "Congressional Record" (CR Page H-1075)

Remarks by SANFORD (R-SC) in "Congressional Record" (CR Page H-1076)

Remarks by CAMP (R-MI) in "Congressional Record" (CR Page H-1082)

02/03/95 -- In The HOUSE

Remarks by GUNDERSON (R-WI) in "Congressional Record" (CR Page H-1159)

Remarks by DEAL (D-GA) in "Congressional Record" (CR Page H-1159)
Remarks by MYRICK (R-NC) in "Congressional Record" (CR Page H-1165)
Remarks by KINGSTON (R-GA) in "Congressional Record" (CR Page H-1165)

02/06/95 -- In The HOUSE
Remarks by BALLENGER (R-NC) in "Congressional Record" (CR Page H-1218)

02/07/95 -- In The HOUSE
Remarks by BARTLETT (R-MD) in "Congressional Record" (CR Page H-1291)
Remarks by FOLEY (R-FL) in "Congressional Record" (CR Page H-1297)

02/08/95 -- In The HOUSE
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-1376)

02/09/95 -- In The HOUSE
Remarks by BARTLETT (R-MD) in "Congressional Record" (CR Page H-1467)

02/10/95 -- In The HOUSE
Remarks by HAYWORTH (R-AZ) in "Congressional Record" (CR Page H-1559)

02/13/95 -- In The HOUSE
Remarks by COBLE (R-NC) in "Congressional Record" (CR Page H-1619)

02/14/95 -- In The HOUSE
Remarks by KINGSTON (R-GA) in "Congressional Record" (CR Page H-1698)

02/15/95 -- In The HOUSE
Remarks by GUTKNECHT (R-MN) in "Congressional Record" (CR Page H-1763)

02/16/95 -- In The HOUSE
Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-1892)
Remarks by RIGGS (R-CA) in "Congressional Record" (CR Page H-1893)
Remarks by FOX (R-PA) in "Congressional Record" (CR Page H-1893)

02/21/95 -- In The HOUSE
Remarks by CHABOT (R-OH) in "Congressional Record" (CR Page H-1909)

02/22/95 -- In The HOUSE
Remarks by ALLARD (R-CO) in "Congressional Record" (CR Page H-1971)
Remarks by TIAHRT (R-KS) in "Congressional Record" (CR Page H-1973)
Remarks by TIAHRT (R-KS) in "Congressional Record" (CR Page H-2032)
Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-2041)
Remarks by BENTSEN (D-TX) in "Congressional Record" (CR Page H-2041)
Remarks by KINGSTON (R-GA) in "Congressional Record" (CR Page H-2041)

02/23/95 -- In The HOUSE
Remarks by SOLOMON (R-NY) in "Congressional Record" (CR Page H-2070)

02/24/95 -- In The HOUSE
Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-2179)

02/27/95 -- In The HOUSE
Remarks by WELLER (R-IL) in "Congressional Record" (CR Page H-2231)

02/28/95 -- In The HOUSE
Public mark-up held by House Committee on the Judiciary
Motion by HYDE (R-IL) reporting the bill without recommendation
Rejected motion by HYDE (R-IL) (Vote No. 7314: 13-20)
Amendment offered by INGLIS (R-SC) prohibiting members from leaving and
them returning to Congress as a means of sidestepping the term limits

Rejected amendment by INGLIS (R-SC) (by Voice Vote)
Motion by INGLIS (R-SC) reporting the bill favorably
Rejected motion by INGLIS (R-SC) (Vote No. 7315: 9-25)
Remarks by HOBSON (R-OH) in "Congressional Record" (CR Page H-2316)

03/01/95 -- In The HOUSE

Remarks by HOKE (R-OH) in "Congressional Record" (CR Page H-2395)
Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-2397)

03/02/95 -- In The HOUSE

Remarks by TIAHRT (R-KS) in "Congressional Record" (CR Page H-2490)

03/03/95 -- In The HOUSE

Remarks by NORWOOD (R-GA) in "Congressional Record" (CR Page H-2648)

03/06/95 -- In The HOUSE

Remarks by CHABOT (R-OH) in "Congressional Record" (CR Page H-2659)

03/07/95 -- In The HOUSE

Remarks by MCCOLLUM (R-FL) in "Congressional Record" (CR Page H-2726)
Remarks by HOBSON (R-OH) in "Congressional Record" (CR Page H-2729)

03/08/95 -- In The HOUSE

Remarks by CHABOT (R-OH) in "Congressional Record" (CR Page H-2814)

Search of 2,276 Bills and Resolutions to Find 15...

With reference in caption to 'TERM LIMITS.'

H.J.Res. 12 by SOLOMON (R-NY) -- Constitution of the United States,
Amendment-Term Limits [43 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States limiting the number of consecutive terms for Members of the House of Representatives and the Senate.

Most Recent Action:

01/04/95 -- In The HOUSE
Introduced by SOLOMON (R-NY)
Referred to House Committee on the Judiciary

-----No. 2 of 15-----

H.J.Res. 24 by COBLE (R-NC) -- Constitution of the United States, Amendment -
Congressional Term Limits [49 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States limiting the terms of offices of Members of Congress and increasing the term of Representatives to 4 years.

Most Recent Action:

01/04/95 -- In The HOUSE
Introduced by COBLE (R-NC)
Referred to House Committee on the Judiciary

-----No. 3 of 15-----

H.J.Res. 25 by CRANE (R-IL) -- Constitution of the United States, Amendment -
Term Limits [47 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States providing that no person may be elected to the House of Representatives more than three times, and providing that no person may be elected to the Senate more than once.

Most Recent Action:

01/04/95 -- In The HOUSE
Introduced by CRANE (R-IL)
Referred to House Committee on the Judiciary

-----No. 4 of 15-----

H.J.Res. 30 by JACOBS (D-IN) -- Constitution of the United States, Amendment -
Presidential Pardons [37 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States permitting the President to grant a pardon to an individual only after such individual has been convicted.

Most Recent Action:

01/04/95 -- In The HOUSE
Introduced by JACOBS (D-IN)
Referred to House Committee on the Judiciary

-----No. 5 of 15-----

H.J.Res. 34 by MCCRERY (R-LA) -- Constitution of the United States,
Amendment-Term Limits [40 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Members of Congress.

Most Recent Action:

01/04/95 -- In The HOUSE
Introduced by MCCRERY (R-LA)
Referred to House Committee on the Judiciary

-----No. 6 of 15-----

H.J.Res. 44 by STUMP (R-AZ) -- Constitution of the United States,
Amendment-Term Limits [40 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States to provide for 4 year terms for Members of the House of Representatives and to provide that Members may not serve more than three terms.

Most Recent Action:

01/04/95 -- In The HOUSE
Introduced by STUMP (R-AZ)
Referred to House Committee on the Judiciary
Extensions to Remarks by STUMP (R-AZ) in "Congressional Record" (CR Page E-16)

-----No. 7 of 15-----

H.J.Res. 52 by PETERSON, PETE (D-FL) -- Constitution of the United States,
Amendment - Term Limits [53 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States providing for 4-year terms for Representatives and limiting the service of Senators and Representatives to 12 years.

Most Recent Action:

01/11/95 -- In The HOUSE
Introduced by PETERSON, PETE (D-FL)
Referred to House Committee on the Judiciary

-----No. 8 of 15-----

H.J.Res. 66 by DEAL (D-GA) -- Constitution of the United States, Amendment -
Congressional Term Limits [41 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office of Members of the Senate and House of Representatives.

Most Recent Action:

01/27/95 -- In The HOUSE
Introduced by DEAL (D-GA)
Referred to House Committee on the Judiciary
Remarks by DEAL (D-GA) in "Congressional Record" (CR Page H-810)

02/03/95 -- In The HOUSE
Remarks by DEAL (D-GA) in "Congressional Record" (CR Page H-1159)
Remarks by KINGSTON (R-GA) in "Congressional Record" (CR Page H-1165)

03/08/95 -- In The HOUSE
Extensions to Remarks by DEAL (D-GA) in "Congressional Record" (CR Page E-546)

-----No. 9 of 15-----

H.J.Res. 68 by FRANK, BARNEY (D-MA) -- Constitution of the United States,
Amendment - Presidential Term Limits [34 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States to repeal the 22d amendment relating to Presidential term limitations.

Most Recent Action:

02/08/95 -- In The HOUSE
Introduced by FRANK, BARNEY (D-MA)
Referred to House Committee on the Judiciary

-----No. 10 of 15-----

H.J.Res. 75 by ESHOO (D-CA) -- Constitution of the United States, Amendment -
Term Limits [49 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Members of the House of Representatives and to provide that Members may not serve more than three terms.

Most Recent Action:

03/06/95 -- In The HOUSE
Introduced by ESHOO (D-CA)
Referred to House Committee on the Judiciary

-----No. 11 of 15-----

H.J.Res. 76 by HILLEARY (R-TN) -- Constitution of the United States, Amendment
- Term Limits [48 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States limiting the terms of office of Senators and Representatives.

Most Recent Action:

03/08/95 -- In The HOUSE
Introduced by HILLEARY (R-TN)
Referred to House Committee on the Judiciary

-----No. 12 of 15-----

H.J.Res. 77 by MCCOLLUM (R-FL) -- Constitution of the United States, Amendment
- Term Limits [56 lines]

Official Title (Caption):

Joint resolution proposing an amendment to the Constitution of the United States with respect to the terms of Senators and Representatives.

Most Recent Action:

03/08/95 -- In The HOUSE
Introduced by MCCOLLUM (R-FL)
Referred to House Committee on the Judiciary

-----No. 13 of 15-----

S. 271 by BROWN, HANK (R-CO) -- Congressional Term Limits, Provision [27 lines]

Official Title (Caption):

A bill to ratify the States' right to limit congressional terms.

Most Recent Action:

01/24/95 -- In The SENATE
Introduced by BROWN, HANK (R-CO)
Referred to Senate Committee on Rules and Administration

-----No. 14 of 15-----

S.J. Res. 19 by BROWN, HANK (R-CO) -- Constitution of the United States,
Amendment-Term Limits [39 lines]

Official Title (Caption):

A joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms.

Most Recent Action:

01/26/95 -- In The SENATE
Mark-up recessed by Senate Committee on the Judiciary subject to the call
of the Chair

02/09/95 -- In The SENATE

This measure replaced by a different measure (S.J.R. 21)

-----No. 15 of 15-----

S.J. Res. 21 by THOMPSON (R-TN) -- Constitution of the United States,
Amendment-Congressional Term Limits [42 lines]

Official Title (Caption):

A joint resolution proposing a constitutional amendment to limit
congressional terms.

Most Recent Action:

02/09/95 -- In The SENATE

Ordered reported with an amendment in the nature of a substitute by Senate
Committee on the Judiciary(Vote No. 7125: 11-6)

This measure replaces another measure (S.J.R. 19)

03/22/95 -- In The SENATE

Remarks by LEAHY (D-VT) in "Congressional Record" (CR Page S-4405)

Q U I C K B I L L

S.J. Res. 21 by Sen. Fred Dalton Thompson (R-TN)
Constitution of the United States, Amendment-Congressional Term Limits

Legislative History:

01/19/95 -- In The SENATE

Introduced by THOMPSON (R-TN)

Referred to Senate Committee on the Judiciary

Remarks by THOMPSON (R-TN) in "Congressional Record" (CR Page S-1235)

Remarks by ASHCROFT (R-MO) in "Congressional Record" (CR Page S-1235)

Remarks by BOND (R-MO) in "Congressional Record" (CR Page S-1236)

01/25/95 -- In The SENATE

Public hearing held by Constitution, Federalism, and Property Rights
Subcommittee

Hearings adjourned by Constitution, Federalism, and Property Rights
Subcommittee

01/26/95 -- In The SENATE

Public mark-up held by Senate Committee on the Judiciary

Mark-up recessed by Senate Committee on the Judiciary subject to the call
of the Chair

02/01/95 -- In The SENATE

Public mark-up held by Constitution, Federalism, and Property Rights
Subcommittee

Amendment offered by THOMPSON (R-TN) allowing members of the House to serve
six terms or 12 years

Agreed to amendment by THOMPSON (R-TN) (by Voice Vote)

Amendment offered by BROWN, HANK (R-CO) making technical and clarifying
changes; ensuring that the term limits would not be retroactive

Agreed to amendment by BROWN, HANK (R-CO) (by Voice Vote)

Amendment offered by BROWN, HANK (R-CO) requiring the resolution to be
ratified by the state legislature of three-quarters of the states,
rather than requiring a constitutional convention to ratify the
amendment

Agreed to amendment by BROWN, HANK (R-CO) (by Voice Vote)

Cleared for full committee, as amended, by Constitution, Federalism,
and Property Rights Subcommittee (Vote No. 7075: 5-3)

02/09/95 -- In The SENATE

Public mark-up held by Senate Committee on the Judiciary

Amendment offered by LEAHY (D-VT) making term limits retroactive

Rejected amendment by LEAHY (D-VT) (Vote No. 7124: 5-11)

Ordered reported with an amendment in the nature of a substitute by Senate
Committee on the Judiciary (Vote No. 7125: 11-6)

This measure replaces another measure (S.J.R. 19)

03/22/95 -- In The SENATE

Remarks by LEAHY (D-VT) in "Congressional Record" (CR Page S-4405)

Date: 03/28/95 Time: 08:09

House To Open Debate On Term Limits

(Capitol Hill) -- The House moves on to another item in the Republican ``Contract with America'' today -- congressional term limits.

The issue of term limits may not fare as well in the House as previous Contract items have. With G-O-P lawmakers clearly enjoying their newfound power, the issue of term limits appears to have lost its urgency.

The House will consider a Constitutional amendment that would limit House members to six two-year terms, or 12 years, and limit senators to two six-year terms, also 12 years.

A two-thirds vote is necessary for House passage.

(SOUND: 4:32 aes)

APNP-03-28-95 0814EST

Date: 03/28/95 Time: 16:49

GOP Ready to Lose, Blame Democrats as Term Limits Vote Nears

WASHINGTON (AP) Anticipating defeat on a key element in their "Contract With America," House Republicans hope to reap credit for holding a vote on term limits while blaming Democrats for the measure's likely demise.

"If we get half the Democrats, we will pass the term limits constitutional amendment," House Speaker Newt Gingrich declared Tuesday as debate opened. He said that more than 85 percent of GOP lawmakers would vote for the measure and "it ought to be possible to get half the Democrats to side with the country that elects them."

Gingrich's partisan jabbing aside, the term limits issue has had a rocky path toward this week's expected vote, particularly for an issue that commands support in the 70 percent range in public opinion polls.

Some senior Republicans oppose the limits. The critics include Rep. Henry Hyde of Illinois, chairman of the Judiciary Committee who calls them a "dumb idea" that would rob Congress of needed expertise, and Texas Rep. Tom DeLay, the party's whip, who says they would enhance the power of unelected bureaucrats.

Efforts to build public support for a specific version have been hampered by squabbling among outside interest groups, and GOP energy has been diverted into hardfought struggles over welfare, taxes and other legislative issues. In addition, Gingrich noted earlier this month that constitutional amendments often take years to amass the support needed.

It takes a two-thirds vote 290 if all 435 lawmakers vote to send the measure to the Senate. Republicans hold 230 seats in the House, Democrats 204, and there is one independent.

Republican leadership aides, speaking on condition of anonymity, predicted roughly 190-200 GOP lawmakers and about 40 or 50 Democrats would vote for term limits, leaving the measure well shy of passage. "I'm against any abridgement of the right of voters to choose," said one Democratic opponent, Pat Williams of Montana.

Even before the vote, supporters were discussing their next step. Some hope Gingrich will commit to holding another vote before the 1996 elections. There was a scattering of support for capping lawmakers' pensions after 12 years' service; others mentioned the possibility of legislation as opposed to an amendment that would place limits on lawmakers' tenure. The speaker is expected to wrap up debate on Wednesday with a speech in favor of term limits.

Republicans sought from the opening moments of debate to reap political gain from bringing the issue to the floor.

The previous House speaker, Democrat Thomas Foley, "refused to allow term limits to come to the floor for a debate and vote," noted Rep. Porter Goss, R-Fla.. Foley was defeated last fall in a race that turned, in part, on a lawsuit he had filed challenging a statewide ballot initiative to impose term limits in Washington state.

Ohio Rep. John Boehner, head of the Republican caucus, told reporters on Tuesday, "We've got a number of term limits groups out there that are fighting with each other over what kind of term limits to have."

U.S. Term Limits, which supports a three-term limit for House members, caused a furor earlier this year when it aired advertisements attacking Republicans who favor a six-term limit.

''We had to fight and claw to get term limits into the 'Contract With America,''' shot back Rep. Deborah Pryce, R-Ohio. ''This is the thanks we get.''

With GOP leaders struggling with an ambitious legislative agenda and a compressed, 100-day timetable, the measure that ultimately emerged from the Judiciary Committee pleased few lawmakers. It would have allowed House members to serve six terms, then sit out one term and serve six more. It was swiftly jettisoned, and in an effort to regroup a few weeks ago, the senior GOP leadership postponed a floor vote.

With great fanfare a few days later, they announced plans to permit votes on four alternatives: one for a three-term maximum for House members; one for a maximum of six terms; one, backed by freshman Rep. Van Hilleary of Tennessee, fixing a six-term limit, but allowing states to impose shorter tenures. A total of 22 states have voted for term limits on their own lawmakers, and a Supreme Court ruling is expected on the constitutionality of that approach later this year.

The fourth alternative is backed by Democrats. It sets a retroactive six-term limit and would permit states to set shorter limits. All measures would cap Senate service at two six-year terms.

Despite a concerted effort to generate late support, only one Republican convert has stepped forward in recent days. That lawmaker, Boehner, said voters have made it clear they favor term limits, and ''they deserve a national constitutional debate.'' Term limit supporters had hoped his move would prompt others to swing behind the measure.

The Democratic leader, Rep. Dick Gephardt of Missouri, opposes term limits and has no plans to speak on the floor on the issue, according to his office.

APNP-03-28-95 1654EST

Date: 03/28/95 Time: 16:57

With AM-Term Limits, Bjt

The four term-limit proposals to be voted on by the House this week. All provide for a limit of two six-year terms for senators:

A Democratic proposal setting a limit of six two-year terms for House members and counting past service against the total. It would permit states to set stricter limits.

A version backed by Rep. Bill McCollum, R-Fla., setting a six-term limit. There would be no retroactivity, and it is silent on the issue of state limits.

A proposal backed by Rep. Bob Inglis, R-S.C., setting a three-term limit. No retroactivity, silent on the issue of state limits.

An alternative backed by Rep. Van Hilleary, R-Tenn., setting a six-term limit and permitting states to set stricter limits.

APNP-03-28-95 1703EST

EXECUTIVE OFFICE OF THE PRESIDENT

22-May-1995 04:00pm

TO: James Castello
TO: Kathleen M. Whalen

FROM: Douglas N. Letter
Office of the Counsel

SUBJECT: Term Limits

James and Kathy: One thing to keep in mind (I have already told Kathy about this) on the term limits issue is that various minority and women's groups have decried term limits as a way to deprive them of power in Congress now that they have finally achieved it. Only recently have many minorities and women in Congress gotten into positions of seniority (forgetting Adam Clayton Powell). Thus, people like Dellums and Rangel are now in positions of power if the Democrats get back in control. However, their power based on seniority will be curtailed by term limits (unless grandfather provisions are put in). Thus, this is a sensitive issue with many minority groups and women. This factor needs to be taken into account before a decision is made for the President to say that he favors allowing each state to decide for itself whether to adopt term limits.

Also, presumably, incumbency is not the only factor that could be used by the states in determining qualifications. Doesn't this open a door that could be pushed wide open? If each state gets to determine the qualifications of its representatives, I think major problems could ensue. One can prevent this by saying that each state could only set qualifications based on prior service in Congress, but that would seem to be an odd line to draw. So, unless we are prepared to abandon the Framers' notion of a more unified Congress, I think the President should think long and hard before coming out in favor of allowing each state to set its qualifications.

Pledge
Pledge
Post Emp./Rocur.

Franking priv.

Pure democracy = allowing maj. & deter.
orig. choice = national level - uniform systems
Augment stmt. tied in w/ pay

Minorities - think designed agst. them

THE WHITE HOUSE
Talking Points re:
U.S. Term Limits vs. Thornton

- The Supreme Court in a 5-4 decision in U.S. Term Limits vs. Thornton, today, struck down state-imposed term limits for Congress. Its decision is consistent with the Administration's position that states have no power to impose term limits.
- The Court ruled unconstitutional an Arkansas term-limit measure -- limiting Senators to 2 six-year terms and Representatives to 3 two-year terms. Twenty-one other states have passed similar laws.
- The Court relied on language in the Constitution that sets forth the qualifications for service as an official elected to the Congress.
- The 5-4 decision reflects how controversial the issue of term limits is. The President continues to believe that the way to fight incumbency and reform the political system is through real reform of campaign finance and lobbying. That's why this Administration has fought for -- and will vigorously fight for -- campaign finance reform, limits on PACs, and restrictions on lobbyists.
-

MEMORANDUM

TO: Kathy Whalen
FROM: Dan Manatt
DATE: March 23, 1995
RE: Term Limits

HOUSE ACTION:

H.J. RES. 773: The Terms Limits Amendment, H.J. Res. 73, which limits members to 12 year lifetime ban, is scheduled to go to the floor on March 27.

SUBSTITUTES: The rule provides for consideration of 4 substitute amendments:

- The Dingell/Peterson Amendment: Retroactive 12 year limits, or lower limits if state law so prescribes. Sponsored by Reps. John Dingell (D-MI) and Pete Peterson (D-FL). (Note: Re. Barney Frank's proposed retroactive amendment to H.J. Res.2 was defeated.)

- Hilleary Amendment: same as Dingell/Peterson, except no retroactive coverage.

- Inglis Amendment: 6 year lifetime limit for House members and 12 year lifetime limit for Senators, sponsored by Bob Inglis (R-SC).

- McCollum Amendment: same as H.J.Res. 73: 12 year lifetime ban, precludes state limits.

RULE FOR HOUSE CONSIDERATION: the rule appears to be a "King of the Hill" rule where the various bills are voted on successively, with the version gaining the most votes is put to a up or down final vote. 2/3 margin is needed for the Constitutional Amendment.

OPPONENTS: Reps. John Boehner, R-OH, and Tom DeLay (R-TX)

REJECTED VERSION: The Rules Committee cobbled H.J.Res. 73 together after abandoning H.J.Res.2. That resolution, which House judiciary reported out without recommendation, would have imposed a ban on members serving 12 year successively, but members could "rotate", i.e. sit out a term and then serve again.

POTUS STATEMENTS: No policy statements found. (See attached printout).

SUPREME COURT CASE: At issue in US Term Limits v. Hill, No 93-1828, argued 11/29/94) was Arkansas Amendment 73, limiting Representatives to 3 terms and Senators to 2. The Justices' opinion seemed very split at oral arguments, with several suggesting that the Arkansas Amendment was overbroad if not fundamentally unconstitutional. Precedents and authority discussed included:

- Qualifications Clauses, Art. I Sec. 2, Cl. 2, Art. I. Sec.3 Cl.3.
- Time, Place, and Manner Clause, Art. I. Sec. 4, Cl.1.
- The 9th and 10th Amendments
- Powell v. McCormack, 395 U.S. 486 (1969) held "in judging qualifications of its members Congress is limited to the standing qualifications prescribed in the Constitution."

LEGI-SLATE Report for the 104th Congress Thu, March 23, 1995 4:43pm (EST)

Q U I C K B I L L

H.J.Res. 73 by Rep. Bill McCollum (R-FL)

Constitution of the United States, Amendment - Congressional Terms of Office

Legislative History:

03/02/95 -- In The HOUSE

Introduced by MCCOLLUM (R-FL)

Referred to House Committee on the Judiciary

03/15/95 -- In The HOUSE

Public hearing held by House Committee on Rules

Granted a modified closed rule by House Committee on Rules (H.Res.116)

Remarks by ENSIGN (R-NV) in "Congressional Record" (CR Page H-3157)

Remarks by GUTIERREZ (D-IL) in "Congressional Record" (CR Page H-3157)

Remarks by METCALF (R-WA) in "Congressional Record" (CR Page H-3273)

03/16/95 -- In The HOUSE

Remarks by JONES (R-NC) in "Congressional Record" (CR Page H-3279)

Remarks by GUTIERREZ (D-IL) in "Congressional Record" (CR Page H-3280)

03/21/95 -- In The HOUSE

Remarks by FRANK, BARNEY (D-MA) in "Congressional Record" (CR Page H-3330)

Remarks by BARTLETT (R-MD) in "Congressional Record" (CR Page H-3336)

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-3336)

03/22/95 -- In The HOUSE

Remarks by BOEHNER (R-OH) in "Congressional Record" (CR Page H-3419)

Remarks by FRANKS (R-NJ) in "Congressional Record" (CR Page H-3426)

Remarks by MCCOLLUM (R-FL) in "Congressional Record" (CR Page H-3552)

Remarks by SMITH (R-WA) in "Congressional Record" (CR Page H-3552)

Remarks by FIELDS, CLEO (D-LA) in "Congressional Record" (CR Page H-3554)

Remarks by MCCOLLUM (R-FL) in "Congressional Record" (CR Page H-3554)

Report is Completed

Turn off your software print command

Welfare, Spending Cuts Top Agenda

House Republicans plunged into the heart of their "Contract With America," taking up the divisive issues of cutbacks in federal programs and federal tax revenues. They also prepared for the clash ahead over their proposal to scale down the federal welfare system.

Debate over the spending cuts brought into sharp relief the two parties' differing views of the role of government. Republicans succeeded in overcoming divisions in their own ranks to pass a bill rescinding fiscal 1995 money from a wide range of programs, but only barely. On the same day, the House Budget Committee unveiled a long-range plan for deeper cuts designed to move toward a lower deficit and at the same time allow tax cuts. (Story, p. 794)

CONTRACT with AMERICA

House-passed legislation continues to face slow going in the Senate. A bill to reduce "unfunded mandates" from the federal government had to be weakened so that it could clear Congress, which it did March 16.

Here is a rundown of action in both chambers the week of March 13: (Contract status chart, p. 789)

- **Term limits.** The House Rules Committee drew battle lines for an uphill effort to limit congressional terms. Floor debate begins March 27. (Story, this page)

- **Line-item veto.** Republican senators agreed to drop a fight over how much power to give the president

to cancel spending in wide-ranging bills, and to unite behind an old proposal to break up bills into individual items that the president could then veto. (Story, p. 798)

- **Tax cuts.** The House Ways and Means Committee on March 14 easily approved a GOP plan (HR 1215) to cut taxes by \$189 billion over five years. But some Republicans are voicing doubts about the scope and timing of the proposals, saying that deficit reduction should come first. (Story, p. 799)

- **Unfunded mandates.** Congress cleared S 1, a bill aimed at shifting power from Washington to state and local governments by placing curbs on expensive federal mandates. After the measure lost much of the bite promised in the contract, Democrats dropped their opposition. (Story, p. 805)

- **Product liability.** Key senators March 15 introduced a proposal (S 565) to change product liability laws that is far less sweeping than a package of bills the House passed the week of March 6. (Story, p. 809)

- **Welfare.** Republicans lobbied to hold their own votes together in hopes of passing their sweeping overhaul (HR 1214) of the welfare system, which goes to the House floor the week of March 20. (Story, p. 813)

- **Regulatory relief.** Two Senate committees moved ahead with different approaches toward reining in federal regulations. A Senate Judiciary subcommittee approved S 343 on March 14, while a somewhat less restrictive version, S 291, heads for a March 21 markup in the Governmental Affairs Committee. (Story, p. 808)

TERM LIMITS

Procedure OK'd On Floor Vote

After weeks of Republican wrangling, the Rules Committee approved a procedure for the House's first floor vote ever on a constitutional amendment to limit congressional terms.

The chamber is scheduled to take up term limits March 27.

The Rules Committee action March 15 capped weeks of intense disagreement among Republicans over just how to proceed on a highly visible plank of their "Contract With America" that has split their ranks. The panel abandoned altogether a controversial version of H J Res 2, sent to the floor Feb. 28 by the Judiciary Committee without recommendation. It would have allowed members to serve 12 years in a chamber, sit out a term, and possibly serve another dozen years. A second divisive provision

would allow federal caps to pre-empt lower limits already approved by some states. (Weekly Report, pp. 732, 662)

By 9-3, the Rules Committee voted to send to the floor a "clean" resolution (H J Res 73), which would impose a 12-year lifetime ban on members, as the base bill for floor consideration. Four substitutes will be allowed:

- A 12-year lifetime limit that would apply the caps retroactively and preserve lower limits passed by some states, sponsored by John D. Dingell, D-Mich., and Pete Peterson, D-Fla.

While he has adamantly opposed term limits in the past, Dingell — who was first elected in 1955 — has argued that members who want to impose curbs on future lawmakers should first apply the limits to themselves.

- A six-year lifetime limit for House members and a 12-year lifetime limit for senators, sponsored by Bob Inglis, R-S.C. Inglis is one of the most hard-line supporters of term limits in the House.

- A 12-year lifetime limit for both chambers that would preserve lower

caps passed by the states, sponsored by freshman Van Hilleary, R-Tenn.

- A 12-year lifetime limit sponsored by Bill McCollum, R-Fla., that is the same as H J Res 73 (and as McCollum's original version of H J Res 2). McCollum thus gets a chance to supersede any of the previous versions if they are adopted with 218 votes.

The proposal that gets the most votes (assuming it has a majority) will then be presented for final approval, which (as a constitutional amendment) requires a two-thirds majority vote.

Speaker Newt Gingrich, R-Ga., and Majority Leader Dick Armey, R-Texas, sent a letter to GOP members March 16 asking them to "work for the version you prefer, but join us in strong support of whichever version stands for final passage."

While top leaders are working to pass some version, several other leaders, including Conference Chairman John A. Boehner, R-Ohio, and Majority Whip Tom DeLay, R-Texas, strongly oppose the idea. ■

Questions presented: (1) Is death sentence invalid when trial court overrides constitutionally protected jury verdict of life without parole and imposes death, when court relies on no norm or standard for limiting its discretion to override and when it gives no reason as to why jury verdict is improper? (2) Does capital sentencing scheme in which trial courts are free to reject jury life-without-parole verdicts without regard to any articulated standard or norm, and in which rejection of those verdicts results in haphazard and inconsistent application of death penalty, violate Eighth Amendment?

Petition for certiorari filed 1/26/94, by Bryan A. Stevenson, of Montgomery, Ala., and Ruth E. Friedman, of Atlanta, Ga.

93-7901 SCHLUP v. DELO

Habeas corpus—Consideration of barred claims—Standard for determining "miscarriage of justice"—Determination of guilt or innocence in capital case.

Ruling below (CA 8, 11 F.3d 738):

In order to qualify for "miscarriage of justice" or "actual innocence" exception to general rule against consideration, on federal habeas corpus review, of constitutional claims that go to state prisoner's guilt or innocence but that are barred as successive, abuse of writ, or procedurally defaulted, prisoner must show by clear and convincing evidence that, but for alleged constitutional errors, no reasonable jury would have found him guilty; this test, announced in case involving claims going to death sentence, *Sawyer v. Whitley*, 60 LW 4655 (US SupCt 1992), was extended to challenges to convictions in *McCoy v. Lockhart*, 969 F.2d 649, 51 CrL 1351 (CA 8 1992), and *Cornell v. Nix*, 976 F.2d 376 (CA 8 (en banc) 1993); prisoner has not met his burden under *Sawyer* with allegedly newly discovered evidence purportedly showing that he was not present at scene of prison murder of which he was convicted, in light of testimony by eyewitnesses, whose credibility cannot be questioned on habeas review, positively identifying prisoner as perpetrator.

Questions presented: (1) Is federal court's consideration of otherwise barred claim regarding guilt or innocence in capital case governed by standard of *Sawyer v. Whitley*—which requires petitioner to show by clear and convincing evidence that but for constitutional error, no reasonable juror would have found him eligible for death penalty—or instead by standard of *Kuhlmann v. Wilson*, 477 U.S. 436 (1986)—which requires only that petitioner make colorable showing of factual innocence? (2) If *Sawyer* test applies, does it require habeas petitioner to show that evidence of guilt was constitutionally insufficient to support conviction?

Petition for certiorari filed 2/14/94, by Sean D. O'Brien and Missouri Capital Punishment Resource Center, both of Kansas City, Mo., and Timothy K. Ford and MacDonald, Hoague & Bayless, both of Seattle, Wash.

93-7927 KYLES v. WHITLEY

Death penalty—Habeas corpus—Non-production of exculpatory materials—Prosecutorial misconduct—Ineffective assistance of counsel.

Ruling below (CA 5, 5 F.3d 806):

Habeas corpus petitioner's conviction for murder and his death sentence are affirmed after consideration of his contention that prosecution withheld exculpatory material relating principally to informer who, petitioner claims, framed him; in light of positive identification of petitioner by four eyewitnesses and great deal of other incriminating evidence, it is not reasonably prob-

able that result of trial would have been different had petitioner had access to such undisclosed information, which was often cumulative and generally inconclusive, that consisted of transcript of informer's first conversation with police officers, written statement signed by informer after police interviews, notes taken by prosecutor during interview with informer, police memo directing officers to pick up garbage in front of petitioner's residence, and list of license plate numbers from cars parked at scene of murder; petitioner's defense counsel did not render ineffective assistance of counsel by failing to call as witness informer, whose testimony, supported by disinterested eyewitnesses, almost certainly would have been inculpatory; because informer did not testify and court is not convinced that he should have been called to testify, defense counsel's failure to interview informer had no apparent bearing on conduct of trial; accordingly, it is not reasonably probable that result of trial would have been different had defense counsel interviewed informer and called him as witness.

Questions presented: (1) Would production by state of exculpatory materials, proper prosecutorial conduct, and effective performance by petitioner's trial counsel have resulted in acquittal or mistrial? (2) Would production by state of exculpatory materials, proper prosecutorial conduct, and effective performance by petitioner's trial counsel have produced sufficient residual doubt in mind of at least one juror to result in life sentence rather than death penalty?

Petition for certiorari filed 2/10/94, by George W. Healy III and Phelps Dunbar, both of New Orleans, La.

Elections

93-986 MCINTYRE v. OHIO ELECTIONS COMMISSION

Ban on distribution of anonymous campaign literature—First Amendment.

Ruling below (Ohio SupCt, 67 Ohio St.3d 391, 618 N.E.2d 152, 62 LW 2206):

Ohio election law that requires person disseminating campaign or issue-oriented literature to place name and address upon literature serves state's important regulatory interests in helping voters evaluate validity of message and in combating fraud, libel, and false advertising and, as such, is reasonable, non-discriminatory restriction that does not violate free speech guarantees of state or federal constitution.

Questions presented: (1) Did court below err in upholding Ohio statute that imposes flat ban on distribution of anonymous political campaign leaflets? (2) Even if facially valid, can Ohio's statute banning anonymous political campaign literature be applied to punish petitioner's distribution of political leaflets advocating defeat of non-partisan referendum on school taxes without violating First Amendment?

Petition for certiorari filed 12/16/93, by David Goldberger, of Columbus, Ohio, George Q. Vaile, of Marengo, Ohio, Kevin O'Neill, Louis A. Jacobs, and American Civil Liberties Union of Ohio Foundation, all of Cleveland, Ohio, and Barbara P. O'Toole and Roger Baldwin Foundation of ACLU Inc., both of Chicago, Ill.

93-1151 FEDERAL ELECTION COMMISSION v. NRA POLITICAL VICTORY FUND

Membership of Federal Election Commission—Separation of powers.

Ruling below (CA DC, 6 F.3d 821, 62 LW 2256):

Presence of secretary of Senate and clerk of House of Representatives as non-voting members

of Federal Election Commission violates separation of powers doctrine.

Questions presented: (1) Is Constitution's separation of powers requirement violated by inclusion on Federal Election Commission of two ex officio members selected by Congress, when statute denies them right to vote and requires that all decisions on exercise of commission's executive powers be made by majority vote of six commissioners appointed by president in conformity with Article II, Section 2, Clause 2 of Constitution? (2) If question 1 is answered in affirmative, should actions taken pursuant to statutory authority by commission over course of almost two decades prior to this decision be accorded de facto validity, as this court did when it found structure of original commission unconstitutional in *Buckley v. Valeo*, 424 U.S. 1 (1976)?

Petition for certiorari filed 1/18/94, by Lawrence M. Noble, FEC Gen. Counsel, Richard B. Bader, Assoc. Gen. Counsel, and Vivien Clair and Kenneth E. Kellner, FEC Attys.

93-1436 U.S. TERM LIMITS INC. v. THORNTON

Term limits—Incumbent members of Congress.

Ruling below (U.S. Term Limits Inc. v. Hill, Ark SupCt, 316 Ark. 251, 62 LW 2586):

Eligibility requirements placed by Arkansas on incumbent U.S. senators and representatives that restrict number of times incumbents may appear on ballot for re-election to their respective positions violate U.S. Constitution's Qualifications Clauses, Article I, Sections 2 and 3.

Question presented: Does Article I of Constitution forbid state to decline to print on its election ballots names of multi-term incumbents in U.S. House of Representatives and Senate?

Petition for certiorari filed 3/17/94, by John G. Kester, Terrence O'Donnell, Dennis M. Black, Timothy D. Zick, and Williams & Connolly, all of Washington, D.C., and H. William Allen, of Little Rock, Ark.

93-1828 BRYANT v. HILL

Ballot access restrictions—Term limits.

Ruling below (U.S. Term Limits Inc. v. Hill, Ark SupCt, 316 Ark. 251, 872 S.W.2d 349, 62 LW 2586):

Eligibility requirements placed by Arkansas on incumbent U.S. senators and representatives that restrict number of times they may appear on ballot for re-election to their respective positions violate Qualifications Clauses, Article I, Sections 2 and 3.

Question presented: Does state have power under Elections Clause, Article I, Section 4, Clause 1, to restrict incumbent candidate's access to ballot in such manner, or do Qualifications Clauses, Article I, Section 2, Cl. 2, and Section 3, Cl. 3, prohibit state from imposing such ballot access restriction?

Petition for certiorari filed 5/16/94, by Winston Bryant, Ark. Atty. Gen., Jeffrey A. Bell, Dpty. Atty. Gen., and Ann Purvis, Asst. Atty. Gen., and Griffin B. Bell, Paul J. Larkin Jr., Polly J. Price, King & Spalding, Cieta Deatherage Mitchell, and Term Limits Legal Institute, all of Washington, D.C.

Employment Discrimination

93-1543 MCKENNON v. NASHVILLE BANNER PUBLISHING CO.

Discharge—Age—After-acquired evidence.

Ruling below (CA 6, 9 F.3d 539, 62 LW 2371, 63 FEP Cases 354):



The United States Law Week

THE BUREAU OF NATIONAL AFFAIRS, INC.
WASHINGTON, D.C. 20001
Phone: 202-336-1000
FAX: 202-336-1001

Supreme Court Proceedings

December 13, 1994

THE BUREAU OF NATIONAL AFFAIRS, INC., WASHINGTON, D.C.

Volume 63, No. 22

ARGUMENTS BEFORE THE COURT

Elections

Congressional term limits

The question concerning the constitutionality of term limits for members of the U.S. House of Representatives and Senate will likely require the U.S. Supreme Court to dig deeper into constitutional history than any other case in recent memory. With textual provisions giving conflicting signals, and few, if any, helpful signals coming from case precedent, the justices took up the issue at oral argument Nov. 29.

Defenders of the term limits provision under review, an amendment to the Arkansas constitution, argued that the amendment merely regulates the "Times, Places and Manner" of congressional elections as allowed by the Constitution. Opponents, however, argued that the amendment adds another qualification to the short, exclusive lists set forth in the Constitution's Qualifications Clauses and is therefore unconstitutional. (*U.S. Term Limits Inc. v. Thornton*, No. 93-1456, and *Bryant v. Hill*, No. 93-1828, argued 11/29/94)

Arkansas Amendment 73

Two years ago, Arkansas joined what is now a total of 22 states that impose congressional term limits when its voters approved a term limitation amendment to the state constitution. The provision, called Amendment 73, provides that any person having been elected to three or more terms as a member of the U.S. House or two or more terms in the U.S. Senate shall not be eligible to have his or her name placed on the ballot for another term. A disqualified person may, however, serve if elected as a write-in candidate.

Art. I, Section 2, Cl. 2 of the U.S. Constitution states: "No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen." Art. I, Section 3, Cl. 3 states: "No Person shall be a Senator who shall not

have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of the State for which he shall be chosen."

The Arkansas Supreme Court cited these provisions of the U.S. Constitution as the basis for declaring Amendment 73 unconstitutional. It said the enumerated qualifications of age, citizenship, and residency are exclusive. The court noted that the founding fathers expressly rejected a "rotation" clause when they wrote the Constitution. Moreover, it said, the framers' desire to have uniformity in the federal government would be negated by permitting each state to impose its own term limits. The state court also cited the analysis in *Powell v. McCormack*, 395 U.S. 486 (1969), which held that "in judging the qualifications of its members Congress is limited to the standing qualifications prescribed in the Constitution." Finally, the state court rejected the argument that Amendment 73 is a valid ballot access law that does not establish new qualifications.

Term Limits Aren't Qualifications

In its brief to the U.S. Supreme Court, Arkansas argued that term limits aren't qualifications. "Qualifications," it said, are criteria that entitle someone to hold office. Instead, the state likened term limits to ballot access regulations imposed by states similar to those upheld by the Supreme Court in *Storer v. Brown*, 415 U.S. 724 (1974).

In *Storer*, the Supreme Court upheld a California law disqualifying from the ballot an independent candidate for the House of Representatives anyone who voted in the preceding primary or had been registered with a political party within one year prior to the primary. According to Arkansas, the Supreme Court found the argument that the California law was a qualification on an individual's right to hold office "wholly

without merit." Thus, the state concluded, *Storer* establishes that a state law regulating a candidate's access to the ballot is not necessarily unconstitutional under the Qualifications Clauses, even if it has an exclusionary effect.

The state also cited *Burdick v. Takushi*, 60 LW 4459 (US SupCt 1992), which upheld Hawaii's ban on write-in voting under the First and Fourteenth Amendments. According to the state's brief, *Burdick* and other cases stand for the proposition that various sections of the Constitution authorize the states to regulate federal elections or implicitly recognize that the states have that power, just as they have inherent power to regulate state elections.

Crucial to Arkansas' case is the Election Clause, Art. I, Section 4, which states: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Place of Choosing Senators." The state contends that "Manner" should be broadly construed to include term limits.

The state also finds support for its position in the Tenth Amendment, which states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Will Term Limits Change Policy?

Arkansas was represented during the oral argument by its attorney general, J. Winston Bryant. He initially invoked the intent of the framers of the Constitution, and not-

Inside Section 3

	Page
Summary of Orders	3454
Journal of Proceedings	3459
In Chambers Opinion	3462
Cases Docketed	3462
Rule 46 Dismissal	3462
Subject Matter Summary of Cases Recently Filed	3463

ed that it was their desire to have a "citizen legislature," the members of which would "serve for a while" and then go back to their homes.

As Bryant explained the genesis of Amendment 73, Justice Kennedy asked whether there were any policy implications involved in its adoption. Will a rotated vote alter the outcome of legislative decisions? he asked.

Yes, but that issue isn't before the court, Bryant responded.

When Kennedy pressed for an answer, Bryant said that with a rotated vote legislators will be more beholden to the people, and that will change policy.

Justice Souter asked if Amendment 73 is a qualification, and Bryant said no.

But doesn't it go beyond *Storer*, Souter said, because it imposes a lifetime restriction?

It's consistent with *Storer*, Bryant answered, because it does not absolutely prohibit a candidate from serving.

Isn't the amendment more than a handicap? Justice Ginsburg queried. Doesn't it "categorically hobble" a candidate?

Bryant stuck to his guns, however, saying the amendment isn't an absolute bar because of its write-in provision. He stressed that it's nothing more than a valid ballot access limitation.

Even if you're correct that the amendment is a valid ballot access regulation, Justice O'Connor asked, isn't the First Amendment implicated?

Yes, Bryant responded.

Has that issue been resolved below? Bryant was asked.

No, it's still an open issue, he responded.

Chief Justice Rehnquist noted that the First Amendment issue was presented to the Arkansas Supreme Court, but wasn't decided.

O'Connor then asked: If the write-in clause is deleted from the Arkansas amendment, could the amendment then be considered a qualification?

Yes, Bryant replied.

Times, Places, and Manner

Changing the focus of the discussion, Justice Scalia asked if Amendment 73 is a times, places, or manner restriction.

Yes, Bryant said.

Which of the three is it? Justice Stevens asked.

Manner, Bryant answered.

In response to a question from Scalia, Bryant agreed that Congress could enact legislation that discourages incumbents. He stressed that under Art. I, Section 4, "Manner" should be given a broad meaning.

Rehnquist asked if Congress can legislate under the Election Clause even if a state hasn't acted.

Bryant said yes.

Ginsburg asked whether that reading of the Constitution left a category of qualifica-

tions that a state couldn't impose under Art. I, Section 4.

Bryant said that if a state couldn't add times, places, or manner restrictions under the Election Clause, it could find authority to add them under the Tenth Amendment.

Kennedy asked if anything a state adds can be overruled by Congress.

Bryant's response was that only those regulations adopted under Art. I, Section 4 could be overruled by Congress. He also said that Congress could add qualifications based on Art. I, Section 4.

But Scalia challenged that interpretation, saying there is a distinction between times, places, and manner regulations and qualifications. Moreover, Art. I, Section 4 doesn't relate to qualifications, he said.

At this point, O'Connor called Bryant's interpretation of the Constitution both "remarkable" and "unusual."

Souter said there is "something odd" in a scheme that permits a less important times, places, or manner restriction to be overridden by Congress, but doesn't give Congress the same authority over more important considerations such as qualifications.

Sources of Power

Arguing on behalf of U.S. Term Limits Inc. was John G. Kester, of Washington, D.C. Before he could even get started, O'Connor asked him if he agreed with Bryant's interpretation of the Constitution.

Not exactly, he said. Kester explained that to determine whether Congress could have adopted term limits under the Constitution, the sources of power for both the states and Congress must be analyzed. In this area, he said, the source of power comes from Art. I, Section 4. But, the powers granted to the states are different from those granted to Congress, he continued. In addition, he stressed that the people of Arkansas voted on Amendment 73.

O'Connor asked if Congress could adopt a law similar to Amendment 73 for all 50 states under Art. I, Section 4?

No, Kester said, but the clause does give Congress authority to knock out any state law it doesn't like. He cautioned, however, that the inquiry doesn't end there. Rather, he said, other sources of power, the Tenth Amendment in particular, must be examined.

Does Art. I, Section 4 give Congress the authority to legislate in this area? Scalia queried.

Not in the first instance, Kester said, but that isn't the issue we are addressing.

If the Tenth Amendment is the source of state power in this area, Scalia said, could states then tell their electors they can't vote for a particular person for president.

That requires looking at a different section of the Constitution, Kester said, and you're looking at only one of several sources of state power. He then reiterated that it was the people of Arkansas who acted here.

Whether a state is acting under the Tenth Amendment or otherwise, Ginsburg said, can Congress override the state action?

Yes, Kester replied.

Souter next questioned why Art. I, Section 4 isn't broad enough to allow Congress to act in the first instance.

Kester said it's not a source of congressional power.

Stevens wanted to know if Kester believed the term "Manner" includes qualifications.

Yes, he said; otherwise Art. I, Section 4 doesn't make sense.

It doesn't make sense only under your theory of the Constitution, Scalia quipped.

Rehnquist asked if Congress could make a law stating a candidate need be only 25 years old to run for federal office.

No, Kester said, that is absolutely contrary to the Qualifications Clause, and cannot be done.

Original Intent

The named respondents in these cases included members of the Arkansas congressional delegation and Bobbie Hill, an Arkansas voter and past president of the League of Women Voters of Arkansas. The brief filed on behalf of Hill argued that "[t]he Constitution provides a clear and sensible framework for the election 'by the people' of persons to serve in Congress. It sets forth express lists of qualifications for service in each House and makes each House the final judge of its members' qualifications. By clearly evidenced and long-accepted implications, it bars both Congress and the states from adding qualifications. It gives the states the power, under the Times, Places and Manner Clause, to regulate the election process, and it adds that 'the Congress may at any time by Law make or alter such Regulations.' Under that Clause, states and Congress have broad power to assure fair and orderly elections, but neither has the power to bar or hobble qualified candidates who are disfavored for reasons unrelated to the election process."

The respondents contend that the founding fathers considered and rejected term limits when the Constitution was drafted. The Hill brief notes that when James Madison's Virginia Plan was proposed to the Constitutional Convention, it contained a rotation requirement, as did the Virginia Constitution at the time. But the convention voted unanimously to remove that provision.

The Hill brief also states that during the ratification process both Madison and Alexander Hamilton made clear that the Qualifications Clause is exclusive. In *The Federalist* No. 52, Madison wrote: "The qualifications of the elected being less carefully and properly defined by the State Constitutions, and being at the same time more susceptible of uniformity, have been properly considered and regulated by the Convention. . . . Under these reasonable

limitations. The door of this part of the Federal Government, is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or to any particular profession or religious faith." In *The Federalist* No. 60, Hamilton stated that the "qualifications of the persons who may choose or be chosen . . . are defined and fixed in the Constitution and unalterable by the legislature."

Powell v. McCormack, according to the brief, was based on the historical record, and stands for the proposition that the qualifications enumerated in the Constitution are fixed. The force and consequences of that interpretation, the Hill brief states, do not depend on whether it is Congress or a state that is seeking to add to the exclusive list.

The brief also argues that calling Amendment 73 a ballot access measure does not save it from unconstitutionality. First, it contends that "however it may be labeled, the [amendment] is, on its face, an attempt to exclude certain persons from Congress because they lack the qualification of limited prior experience. Second, in any event, a state has no power (under the Times, Places and Manner Clause of Art. I, §4 or otherwise) to regulate the manner of elections so as to cripple candidates who are qualified, merely because the state believes their continued service would be undesirable."

Let the People Choose

Arguing for the respondents, Louis R. Cohen, of Washington D.C., immediately stated that his theory of the Constitution is the same as Madison's and Hamilton's. The Constitution, he said, deals comprehensively with filling the legislatures. It gives both states and Congress the power to deal with the times, places, and manner of elections, but only procedurally. Ultimately, he said, it is up to the people to choose who they want to represent them.

Addressing the Qualifications Clause, Scalia asked Cohen why the framers didn't write it differently. It's more of a "Disqualification Clause," Scalia said. Just because you meet the conditions, he continued, you may still be ineligible for office.

Cohen answered that Hamilton and Madison stated the framers wanted to make the qualifications exclusive.

Cohen noted that the Supreme Court has already reviewed the history of the Qualifications Clause in *Powell*, and Ginsburg asked if that review should be given precedential effect.

Powell is a very persuasive opinion, Cohen said, but there is also other substantial evidence on our side.

Does *Powell* go beyond whether a house of Congress can create new qualifications? Souter asked.

It rests on the proposition that the qualifications are fixed in the Constitution, Cohen responded.

But it's directed only at Congress, Rehnquist interjected.

That's true, Cohen said, but its analysis can be used in other contexts as well. To prove this last point, he cited *Nixon v. U.S.*, 61 LW 4069 (US Sup Ct 1993), in which the Supreme Court approvingly cited *Powell* while discussing the Senate's authority to impeach federal judges.

Scalia noted that *Powell* did not discuss the Tenth Amendment.

But, Cohen said, *Powell* did dispose of the additional qualifications issue, and this isn't a Tenth Amendment case.

O'Connor noted that in *Storer* the candidates were prevented from being on the state's ballot for only a limited period of time, and that wasn't considered to be a qualification.

Storer, Cohen said, stands for the proposition that states are responsible to oversee fair and orderly elections. It does not mean that states can impose other limits, he added. Cohen stressed that Amendment 73 is impermissible because it tries to impose qualifications.

Souter asked Cohen to distinguish *Storer*.

Storer, Cohen said, dealt with a legitimate times, places, and manner restriction to keep the California ballot unencumbered, protect the vote, and preserve orderly elections.

Cohen then analogized this case to a 100-yard foot race in which last year's winner is required to start 50 yards behind everybody else because the race sponsors want to "spread medals around." He said it is procedural regulations that the Constitution permits, not preferences for one class of candidates over another.

Cohen added that Art. I, Section 4 specifically gives Congress the power to regulate voting practices only. Citing *The Federalist* No. 59, he said any other interpretation would leave Congress at the hands of the states.

Scalia suggested that Amendment 73 is technically neither a qualification nor a times, places, or manner regulation. Rather, he said, it's a third type of requirement.

Cohen agreed that it was a third, but impermissible type of regulation.

Stevens noted that the Arkansas Supreme Court had found that it was a qualification. Are you conceding it's not a qualification? he asked.

Yes, was the reply.

That's a major concession, Stevens retorted.

Kennedy interrupted to point out that Cohen's brief argues that the amendment is a qualification.

Cohen agreed that the first part of brief does so, but he quickly added that the second part argues that even if it's not a qualification it is impermissible.

So it's "like a qualification," Kennedy said.

It's not something the states can do, period, Cohen responded.

Can you distinguish between a valid ballot access regulation and a lifetime inability to run for office? O'Connor asked Cohen.

An inability, he said, doesn't have anything to do with incumbents. The Constitution gives the choice of representatives to the people, he continued; it gives the states only a procedural role.

Storer doesn't lend a clear line to your argument, O'Connor told Cohen.

He admitted that the line is tough, but said it's there. If states can adopt term limits like this, Cohen continued, they would have the ability to make laws that do such things as prohibit candidates from running for the Senate if they haven't previously served in the House.

Scalia suggested that the question is close, but that he is inclined to follow the practices in place at the time the Constitution was written. There have, he said, been some qualifications in place since then. To illustrate, he noted that in most states you have to be able to vote to be on a ballot, but that felons can't vote.

Cohen said there wasn't much to discuss along these lines.

Even so, Scalia said, these qualifications persist.

Those laws should be declared unconstitutional, Cohen responded. In fact, he added, some state and lower federal courts have already done so.

In conclusion, Cohen said, Article 5 of the Constitution, which delineates the procedures for adopting new constitutional amendments, is the only proper method available for adopting term limits.

Government Opposes Term Limits

Arguing for the United States as amicus curiae in opposition to term limits was Solicitor General Drew S. Days III. He said that a fair reading of *Powell* and *Nixon* indicates that Congress can't add to the textual qualifications in Art. I—that the Supreme Court has determined that those requirements are fixed.

That is dicta, Rehnquist insisted.

Days conceded that Rehnquist was right, but suggested that the court need not review the history of the Qualifications Clauses again.

Next, Days said, the times, places, and manner powers from Art. I, Section 4 are shared by both the states and federal government. He insisted, however, that term limits may not be classified as "Manner." Rather, he said, they are qualifications.

In support of his position, Days noted that *Storer* focused on only one election cycle. But, he contended, any burden placed on a candidate for his lifetime, or one that extends beyond a single election cycle is a qualification.

What if the candidate ends up on the ballot by mistake, he's a convicted felon and should not have been permitted to run under state law? Scalia asked. Could Congress then exclude him?

No. Days said, there isn't much that could be done under those facts.

Isn't that because being a convicted felon isn't a qualification? Scalia continued.

Ultimately, Days said, it doesn't matter what you call term limits. He likened them to "unidentified flying objects" and said they're unconstitutional.

Stevens wanted to know what application Days saw for the Tenth Amendment in this case.

The Tenth Amendment, Days said, restates the division of authority already outlined in the Constitution. Here, it merely reinforces the times, places, and manner provision. States may not, he continued, use the amendment to fill in the gaps and alter federal authority. In any event, he said, the Tenth Amendment isn't applicable in this case.

Justice Breyer asked whether *Storer* provides a "backdoor" method for states to create qualifications.

Days disagreed, once again noting that *Storer* focuses on one particular election cycle. Under Amendment 73, he said, "once you're done, you're done."

Addressing Scalia's comment about the "Disqualification Clause," Days said that *Powell* recognized that the clause was written the way it was by the Committee on Style. But, he continued, the wording doesn't change the substance of the clause, or the intent to delete rotation requirements.

Did the people who voted for ratification know that, Scalia asked, or are we taking James Madison's word for it?

He's a pretty credible source, Days responded.

Days said Amendment 73 does not fit into the Times, Places and Manner Clause. Rather, he concluded, it closes the door Madison had in mind for open elections.

cities, when viewed in light of statistical evidence showing racial composition of each of Louisiana's seven congressional districts, is so extremely irregular on its face that it can be explained credibly only as product of race-conscious decision-making; neither incumbency politics, Voting Rights Act, nor attempt to remedy past legal and societal or continuing societal discrimination is compelling governmental interest that would justify Louisiana's congressional districting plan; state's contention that district endows its residents with commonality of interest by following Red River Valley is clearly post hoc rationalization that is unbelievable; state's claim that district's lines were inspired by prior district that had been crafted to ensure re-election of incumbent member of Congress is also rejected; Voting Rights Act does not compel creation of majority-minority congressional district in addition to one that already exists; Louisiana is therefore enjoined from holding congressional elections based on such plan.

Questions presented: (1) Did district court err in holding that any intentional creation of majority-black district renders congressional districting plan presumptively unconstitutional and subject to strict scrutiny by federal courts? (2) Did district court err in ruling that state's historical district configurations are legally irrelevant to constitutionality of similarly configured majority-black congressional district, and in imposing court's own subjective preferences as constitutional requirements for redistricting? (3) Did district court err in requiring state, contrary to *Wygan v. Jackson Bd. of Educ.*, 476 U.S. 267 (1956), to prove actual violation of Voting Rights Act or Constitution as predicate for drawing majority-black district, and in dismissing as inadequate all of compelling state interests supporting Louisiana's congressional districting plan? (4) Did district court err in holding that plaintiffs, none of whom resides in or near challenged majority-black district, have standing in absence of any findings or evidence that Louisiana redistricting plan has actually injured any plaintiff? (5) Did extraordinary irregularities in proceedings below, including improper imposition of burden of proof upon state, constitute clear abuse of district court's discretion and deny state fair trial? (6) Did district court exceed its authority by imposing, without hearing, court-ordered redistricting plan for future elections that disregards valid state policy choices?

SUMMARY OF ORDERS

By orders lists issued Dec. 9 and 12, 1994, the Supreme Court granted review in two cases on the Appellate Docket that, for purposes of oral argument, will be consolidated, and denied review in 53 other Appellate Docket cases. Review was also denied in 92 cases in the 5000 series, which is sometimes called the in forma pauperis docket. The court did not act summarily in any case pending on either docket.

Grant of review, as used in the following summary of orders, is evidenced in appeal cases by the court's action noting probable jurisdiction or postponing the question of jurisdiction to the hearing on the merits; in certiorari cases, by the granting of certiorari. In all cases in which review is granted, oral argument will ordinarily follow.

Disposal by summary action is evidenced in appeal cases by a per curiam order affirming, reversing, or vacating the judgment below or dismissing the appeal; in certiorari cases, by a per curiam order granting the petition for certiorari and simultaneously affirming, reversing, or vacating the judgment below.

Denial of review relates principally to certiorari cases and is normally evidenced by denial of certiorari.

The summary below lists the cases on the Appellate Docket in which the court either granted or denied review. For each case, there is given (1) its number and title; (2) a citation to the lower court's opinion or order; (3) the ruling of the court below; and (4) the principal questions presented if the case has been granted review.

Other orders appear only in the journal of proceedings elsewhere in this issue of Law Week.

Review Granted

ELECTIONS

94-558 U.S. v. HAYS

Ruling below (*Hays v. Louisiana*, DC WLs, 7/29/94):

Race-conscious redistricting, while not always unconstitutional, is always subject to strict scrutiny under Equal Protection Clause; Louisiana congressional district that cuts across historical and cultural divides, splits 12 of its 15 parishes, and divides four of state's seven major cities, when viewed in light of statistical evidence showing racial composition of each of Louisiana's seven congressional districts, is so extremely irregular on its face that it can be explained credibly only as product of race-conscious decision-making; neither incumbency politics, Voting Rights Act, nor attempt to remedy past legal and societal or continuing societal discrimination is compelling governmental interest that would justify Louisiana's congressional districting plan; Louisiana is therefore enjoined from holding congressional elections based on such plan.

Questions presented: (1) Is intentional creation of majority-minority district always subject to strict scrutiny? (2) Are boundaries of District 4 of Louisiana's redistricting plan so bizarre on their face that they can be understood only as effort to segregate voters into separate districts because of their race? (3) Is state's creation of District 4 narrowly tailored to further compelling interest?

94-627 LOUISIANA v. HAYS

Ruling below (DC WLs, 7/29/94):

Race-conscious redistricting is always subject to strict scrutiny under Equal Protection Clause; Louisiana congressional district that cuts across historical and cultural divides, splits 12 of its 15 parishes, and divides four of state's seven major

Review Denied

ALIENS AND CITIZENSHIP

94-774 CHONG v. IMMIGRATION AND NATURALIZATION SERVICE

Ruling below (CA 11, 10/6/94, unpublished):

Board of Immigration Appeals did not abuse its discretion in denying "extreme hardship" suspension from deportation for two citizens of Malaysia who had established business in United States that grosses more than \$500,000 annually and employs two U.S. citizens and who would be denied adequate employment and educational opportunities for their children, because they are not Moslems, if they were deported to Malaysia.

ANTITRUST

94-695 INTERNATIONAL BUSINESS MACHINES CORP. v. ALLEN-MYLAND INC.

Ruling below (CA 3, 33 F.3d 194):

MAIL-IT REQUESTED: MARCH 23, 1995

100Y5T

CLIENT: WHO
LIBRARY: NEWS
FILE: MAJPAP

YOUR SEARCH REQUEST AT THE TIME THIS MAIL-IT WAS REQUESTED:
PRESIDENT OR CLINTON W/3 TERM LIMITS AND DATE AFT 9/1/1994

NUMBER OF STORIES FOUND WITH YOUR REQUEST THROUGH:
LEVEL 1... 93

LEVEL 1 PRINTED

THE SELECTED STORY NUMBERS:
17,23,24,35,43,74,89

DISPLAY FORMAT: FULL

SEND TO: CORBELLI, LINDA
OA - LIBRARY
ROOM G-007 NEOB
725 17TH STREET, NW
WASHINGTON DISTRICT OF COLUMBIA 20503

*****03166*****

LEVEL 1 - 17 OF 93 STORIES

Copyright 1994 Gannett Company, Inc.
USA TODAY

December 8, 1994, Thursday, FINAL EDITION

SECTION: NEWS; Pg. 1A

LENGTH: 236 words

HEADLINE: Clinton to GOP: Make term limits retroactive

BYLINE: Judy Keen; Bill Nichols

BODY:

President Clinton will challenge Republicans in Congress to make the term limits they've promised to enact retroactive.

The gambit is one idea the White House has settled on in its hunt for the upper hand on the new GOP-led Congress.

"If they want to amend . . . the Constitution," says White House counsel Abner Mikva, they shouldn't do it "nonchalantly. If it's really important, you don't trivialize it with a grandfather clause."

A new USA TODAY/CNN/ Gallup Poll shows the public agrees with the White House: 57% say current members of Congress who have served 12 years should not be allowed to run again if term limits pass.

The poll found 37% believe members should be allowed to keep their jobs for up to 12 more years if the Constitution is amended.

Clinton has long said he opposes term limits, but supports a state's right to enact them.

Term limits are part of the Contract with America the GOP has promised to vote on in the House's first 100 days.

One GOP proposal would limit House members to three two-year terms, the other to six terms. Senators would be limited to two six-year terms.

Paul Jacob of the non-partisan group U.S. Term Limits says proposing retroactive limits is a move "to stick it to Republicans . . . a political game."

Clinton "should come out and support real term limits: three terms and out," he says.

The poll of 1,014 adults has a 3 point margin of error.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: December 09, 1994

LEVEL 1 - 23 OF 93 STORIES

Copyright 1994 The Times Mirror Company
Los Angeles Times

November 30, 1994, Wednesday, Home Edition

SECTION: Part A; Page 26; Column 5; National Desk

LENGTH: 365 words

HEADLINE: CLINTON, GOP APPEAR TO TRADE PLACES ON VALUE OF TERM LIMITS

BYLINE: By DAVID G. SAVAGE, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

Three weeks after voters switched the majority and minority parties on Capitol Hill, leaders of the two parties sound as though they are switching sides on the wisdom of adding term limits to the U.S. Constitution.

Before the election, Republicans made term limits a key part of their agenda for changing Congress and promised to press a constitutional amendment within 100 days.

But last week, incoming House Speaker Newt Gingrich (R-Ga.), a 16-year veteran, suggested that term limits should not apply to current lawmakers.

And key Republicans, including Sens. Orrin G. Hatch (R-Utah) and Rep. Henry J. Hyde (R-Ill.), who are expected to head the judiciary committees in the new Congress, said they would fight a proposed constitutional amendment as unwise and unnecessary.

On the other side, President Clinton is seeing new virtue in the idea, at least if it is applied to all lawmakers.

"The President doesn't think there should be an escape hatch" for current incumbents, White House legal counsel Abner Mikva said Tuesday evening. "He has said all along that he doesn't think it is a good policy, but if it's important enough to do it, it should apply to everyone."

White House officials said that they wanted to clarify Clinton's position on term limits. They also clearly see a new political opportunity in hitting the Republicans with a club that has been used so often against Democrats.

"This was great campaign fodder for them," Mikva said of the Republicans, but "you shouldn't trivialize the issue by adding a grandfather clause" to exempt the current members of the House and Senate, he added. Before, as leader of the majority Democrats, Clinton hardly could have favored a measure that could have ousted the senior leaders of his party on Capitol Hill.

But as President, Clinton already has an eight-year term limit fixed in the Constitution, while his political opponents on Capitol Hill will now be long-term Republican members who control the House and Senate.

Los Angeles Times, November 30, 1994

Sen. Bob Dole (R-Kan.), slated to be majority leader, first came to Congress in 1961 as a House member and has served in the Senate since 1969. Gingrich was first elected to the House in 1978.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: December 1, 1994

LEVEL 1 - 24 OF 93 STORIES

Copyright 1994 The New York Times Company
The New York Times

November 30, 1994, Wednesday, Late Edition - Final

SECTION: Section B; Page 9; Column 1; National Desk

LENGTH: 1117 words

HEADLINE: In Term Limits Debate, Justices Take Up a 'Very Hard' Case

BYLINE: By LINDA GREENHOUSE, Special to The New York Times

DATELINE: WASHINGTON, Nov. 29

BODY:

An intense and sometimes confusing Supreme Court argument today on the validity of state-imposed term limits for members of Congress left one thing clear: no precise legal precedent and no undisputed historical evidence exists to guide the Justices' decisions in the most important case on the structure of the national Government to reach the Court in years.

Prodded by the Justices' questions, the four lawyers who presented the 90-minute argument disputed nearly every proposition, and even ostensible allies could not always agree along the way.

"This is a clear case, an easy case," Louis R. Cohen, representing opponents of the term-limits initiative that Arkansas voters approved two years ago, told the Court at one point. But Justice Antonin Scalia seemed to capture the mood of his colleagues a moment later when he called the case "very hard and very close."

The question is whether the Constitution, which sets the qualifications for membership in the Senate and House of Representatives while allowing the states to set the "times, places and manner" of holding Congressional elections, permits the limitation that Arkansas placed on the incumbent members of its Congressional delegation.

Under the state provision known as Amendment 73, no one who has served three terms in the House or two in the Senate can ever again be listed on the ballot for those offices, although they could run as write-in candidates.

"Our founding fathers envisioned a Congress of citizen-legislators," the Arkansas Attorney General, J. Winston Bryant, told the Justices, depicting a system under which members of Congress would "serve a while, return and mix with the people, and not stay in office indefinitely." The Attorney General added: "Entrenched incumbency makes for an electoral system that is less fair, less competitive, and less representative."

But Mr. Cohen said the Constitution "leaves the people at each election to choose who they wish to govern them," and bars the states as well as Congress itself from adding to the list of qualifications set out in Sections 2 and 3 of Article I: age, citizenship, and residency in the state.

The New York Times, November 30, 1994

Supporters of term limits have prevailed at the polls in 22 states and are pushing for a constitutional amendment that would require term limits nationwide no matter which way the Court rules.

"If term limits are not a fad but a considered national judgment, the way to impose them is through Article V," Mr. Cohen said, referring to the Constitution's requirement that amendments be approved by two-thirds of each house of Congress and by three-quarters of the states.

The new Republican leadership of Congress has promised a vote on a term-limits proposal within the first 100 days of the new Congressional session, a timetable that may require Congressional action before a Supreme Court decision. The current Court term, during which the Justices will decide the case, *U.S. Term Limits v. Thornton*, No. 93-1456, runs until late June.

Arkansas, along with U.S. Term Limits, a lobbying group that has worked to enact term limits in a number of states, is appealing a decision of the Arkansas Supreme Court last March that the state's term limit amendment is unconstitutional. That court held that the qualifications set by the Constitution for service in Congress are exclusive and that states may not add the additional qualification of not being a multi-term incumbent.

Mr. Bryant argued today the state's Amendment 73 is not a qualification but simply a ballot access measure, permissible under the constitutional provision that permits states to set the "times, places and manner of holding elections for Senators and Representatives." He said the amendment was valid under a 1974 Supreme Court decision, *Storer v. Brown*, which upheld a California law that barred from the ballot any independent candidate for the House who had been affiliated with a political party during the previous year.

Justice David H. Souter disputed Mr. Bryant's analysis, noting that the Arkansas amendment applied for life while the California law at issue in the *Storer* decision applied for only one electoral cycle. "*Storer* didn't have that implication of permanence," Justice Souter said.

Mr. Bryant ran into major difficulty when, in answer to a rapid-fire series of questions from several Justices, he said that Congress itself could set new qualifications for service if it chose, including a hypothetical law requiring Senators to be at least 50 years old instead of the 30 required by Article I.

"This is a very remarkable proposition," Justice Sandra Day O'Connor said in a tone of barely contained shock that did not appear to faze the attorney general as he plowed on with his expansive argument.

His co-counsel, John G. Kester, representing U.S. Term Limits, gently but pointedly disavowed the further reaches of the Attorney General's argument. He said that Congress could not impose any requirements that directly contradicted those in the Constitution and could not enact term limits on its own. But he said the states could do so because the Constitution protects a "certain core of state authority" through the 10th Amendment, which reserves to the states powers not explicitly granted to the Federal Government.

Just as the Arkansas Attorney General relied on one Supreme Court precedent in support of term limits, Mr. Cohen, representing the League of Women Voters and other opponents, cited another: *Powell v. McCormack*, a 1969 decision

The New York Times, November 30, 1994

holding that the House of Representatives could not refuse to seat a duly elected member, Adam Clayton Powell Jr. of New York, who had been accused of misusing Government money but met the constitutional qualifications for office.

That ruling showed, Mr. Cohen said, that the qualifications were exclusive and could not be supplemented.

"You're wrong," Chief Justice William H. Rehnquist told him. The Powell decision held only that one house of Congress could not set new qualifications and said nothing about the powers of the states, the Chief Justice said.

Mr. Cohen replied that the Powell decision established a "logical foundation" from which "an extension to the states is straightforward."

"It can't possibly be straightforward," Justice Scalia said, given the states' additional authority under the 10th Amendment.

Mr. Cohen objected to that analysis, saying, "This is not a 10th Amendment case."

Solicitor General Drew S. Days 3d presented the Clinton Administration's view that term limits are unconstitutional. He said the Court's decision in the 1974 Storer case permitted states only to regulate the "integrity of the electoral process" within a single electoral cycle.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: November 30, 1994

LEVEL 1 - 35 OF 93 STORIES

Copyright 1994 The Houston Chronicle Publishing Company
The Houston Chronicle

November 18, 1994, Friday, 2 STAR Edition

SECTION: A; Viewpoints; Pg. 37

LENGTH: 174 words

HEADLINE: Term limits still needed

BYLINE: CLYMER WRIGHT

DATELINE: HOUSTON

BODY:

So, the Chronicle believes the recent election proves that term limits are not needed and has rested its case ("Case well made -- Proving that term limitation is an unnecessary law," Editorial page, Nov. 12).

Not so fast. Let's reopen the case on the basis that one example (one election) is inconclusive proof for any argument and that much of the vote for the housecleaning was based on Republican promises to bring term limits and other issues to a vote on the floor of Congress.

The reason we still need term limits is that they guarantee that we won't have to wait another 40 years for a good housecleaning.

Who are the opponents of term limits? Let's start with President Clinton, other career politicians and the liberal news media. When that bunch is on the other side, term-limits proponents can be sure that they are on the right track.

Some congressional Republicans are already making noises about opposing term limits. Those who do can look forward to some spirited primary challenges in 1996.

LANGUAGE: ENGLISH

NOTES: Clymer Wright is chairman of Citizens for Term Limits

LOAD-DATE-MDC: November 19, 1994

LEVEL 1 - 43 OF 93 STORIES

Copyright 1994 McClatchy Newspapers, Inc.
Sacramento Bee

November 12, 1994, METRO FINAL

SECTION: MAIN NEWS; Pg. A9

LENGTH: 1227 words

HEADLINE: CLINTON TAKES HEAT FOR VOTERS' WRATH

BYLINE: Muriel Dobbin, Bee Washington Bureau

DATELINE: WASHINGTON

BODY:

In the corridors of power in Washington, it will be long remembered as "Bloody Tuesday."

That's what Democrats have dubbed the day of congressional elections that put them out of office and out of work as Republicans roared back into power for the first time in four decades.

It was a day that left a lot of Democrats hunting for someone to blame. For many, the hunt stopped at a big, white house on Pennsylvania Avenue.

"Right now, liberal Democrats hate Clinton more than the Republicans do," said one bitter committee aide who said he could not risk being identified.

It was President Clinton, he contended, who angered voters by not living up to their expectations.

"He was elected as an outsider who would bring change, and as soon as he got to Washington, he turned into an insider," the staffer charged.

Another congressional assistant suggested that exit polls showing a significant shift to Republicans by male voters reflected a long-simmering resentment toward increasingly liberal policies.

"The message is, 'Stop messing with conservative white men,' " she said.

Voters' anger "had to have a focus, and most likely it was Clinton," said Stephen Hess, a political analyst at the Brookings Institution in Washington. "This was a personal repudiation of the president."

Tuesday's about-face at the polls "is tidal-wave stuff," Hess said. "It goes beyond Democrats and Republicans because what it signaled was the level of disappointment and anger out there in the country.

"Washington has become unreal to a lot of people," Hess said, "and it's easy to vote against a member of Congress because they aren't real and what they do doesn't seem meaningful."

According to Hess, Clinton has "a very narrow window of opportunity" to turn around public hostility before plunging into what is likely to be the

Sacramento Bee, November 12, 1994

re-election fight of his life.

"I would expect Clinton to be challenged from the right and the left within his own party. And if (former Joint Chiefs of Staff Chairman) Colin Powell chooses to run as a Republican, it will be a real scrap," he predicted.

However, Hess cautioned against any GOP inclination toward complacency.

"The people who threw the Republican rascals out in 1992 threw the Democratic rascals out in 1994, and there's no reason they can't start over in 1996," he observed.

Larry Sabato, a professor of government at the University of Virginia who studies elections, agreed the Republican vote reflected a negative reaction to Clinton's first two years in office.

Yet he noted, "An election is a beginning, not an end. The Republicans have opened a door, but they have to perform well enough to take the voters with them through that door."

He foresaw a brief interlude of bipartisan "happy talk" on Capitol Hill, followed by two years of bitter rivalry.

Rep. Robert Matsui, D-Sacramento, said the Republicans should be given six months to come up with their agenda, and that Democrats should take a "constructive" approach.

But he complained that the level of nastiness was rising as Republicans take over, singling out a recent reference to the Clintons as "counterculture McGovernicks," by Rep. Newt Gingrich of Georgia.

Sabato predicted things would get worse for the White House.

"Clinton's first two years were a picnic compared to what he is facing now," Sabato said. "His number 1 goal will be re-election, and to achieve it, he will have to perform the kind of balancing act that he doesn't do well. He's better at tap dancing from one topic to another."

A beleaguered Clinton noted wryly that "term limits are looking better to me each day."

People on Capitol Hill told macabre jokes about visiting the burial site of outgoing House Speaker Tip O'Neill "to see whether there was much damage caused when he turned over in his grave."

This week's massive changing of the guard is expected to cost 4,000 Democrats their jobs on Capitol Hill as Republicans slash budgets and staffing levels.

"Those guys are out for blood," one staffer said. "They feel they were very unfairly treated (when Democrats were in control), and now they're going to get back at us."

LANGUAGE: ENGLISH

Sacramento Bee, November 12, 1994

LOAD-DATE-MDC: November 14, 1994

LEVEL 1 - 74 OF 93 STORIES

Copyright 1994 The Houston Chronicle Publishing Company
The Houston Chronicle

October 12, 1994, Wednesday, 2 STAR Edition

SECTION: A; Pg. 7

LENGTH: 323 words

HEADLINE: Term-limit advocates campaign to unseat Brooks

BYLINE: GRAEME ZIELINSKI, Houston Chronicle Washington Bureau; Staff

DATELINE: WASHINGTON

BODY:

WASHINGTON -- A well-financed group that advocates term limits announced Tuesday an advertising campaign aimed at unseating influential incumbents, including Rep. Jack Brooks, D-Beaumont.

Americans For Limited Terms plans to spend more than \$ 1.5 million on television and print advertising that will criticize as many as 15 incumbents who oppose limiting terms.

Although the group's president, Robert Costello, claims the effort is non-partisan, the hit list so far includes only three powerful Democrats and one liberal Republican. The negative advertising would stop if the targeted incumbent agreed to support term limits, he said.

Costello said the group would spend as much as \$ 150,000 on the race between Brooks, a 42-year incumbent who opposes term limits, and Republican challenger Steve Stockman, who supports them.

Stockman said he was "'ecstatic'" at the outside efforts, and the money would represent "'probably 150 percent of what we have'" to spend in the campaign against Brooks.

"'I had Christmas early. It's the best treat you can get around Halloween,'" Stockman said. "'I'm sure (Brooks) isn't going to be too happy because he's counting on us to be dead in the water. '"

But Brooks, the second most senior House member, elected in 1952, alleged political mischief.

"'In the past, I've had outsiders come into my district trying to influence the voters,'" Brooks said. "'I don't think that voters should be restricted in their selection of office holders for any reasons other than ability, integrity and constitutional provisions. '"

The advertising blitz is also intended to swing the balance in the tight races of Democratic House Speaker Tom Foley and Sen. Edward Kennedy, D-Mass. The group also singled out liberal

The Houston Chronicle, October 12, 1994

Republican Rep. Connie Morella of Maryland, an eight-year incumbent.

Paul Farago, vice president of the term limits group, would not reveal donors.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: October 13, 1994

LEVEL 1 - 89 OF 93 STORIES

Copyright 1994 The Houston Chronicle Publishing Company
The Houston Chronicle

September 9, 1994, Friday, 3 STAR Edition

SECTION: A; Pg. 4

LENGTH: 420 words

HEADLINE: Clinton administration fights term limits imposed by states

BYLINE: LINDA GREENHOUSE; New York Times

DATELINE: WASHINGTON

BODY:

WASHINGTON -- The Clinton administration has told the Supreme Court that state-imposed limits on terms for members of Congress are unconstitutional and has asked the court's permission to present that argument when the justices hear an important term-limits case from Arkansas later this year.

In a motion filed with the court last week, Solicitor General Drew Days III said that because congressional term limits ""directly affect the composition of the federal legislature," the government has an important stake in the outcome, although it is not a party to the Arkansas case.

The solicitor general's motion said that the Arkansas term-limits amendment, adopted through a voter referendum in 1992, ""poses a particular threat to the federal system in that it makes membership in the Congress dependent on regulation by the states. "

The Arkansas Supreme Court declared the state amendment unconstitutional earlier this year.

Days said he planned to file a brief in the case next month.

Under the court's rules, the federal government can file a brief in any case without special permission, but must request permission to participate in the oral argument when the government is not a party.

While the motion was the first indication of the administration's position in a term-limits case, its stand was not a surprise. The Democratic leadership of Congress is firmly opposed to term limits.

Speaker Thomas Foley has brought a lawsuit challenging a term-limits measure adopted by the voters in Washington State, whose easternmost district he has represented for 30 years. A federal district judge declared the state's measure unconstitutional earlier this year, and the case is now before a federal appeals court in San Francisco.

The Houston Chronicle, September 9, 1994

The issue does not split neatly along party lines. Some congressional Republicans have said they plan to join Democrats in filing a brief against the term limits in the Arkansas case.

Nonetheless, the term-limits movement has obvious voter appeal, and the administration's position is unlikely to be popular in the 15 states that have adopted limits on the number of terms their congressional representatives can serve.

Under the Arkansas measure, which voters approved by a ratio of 60 percent to 40 percent, anyone who has served three terms in the House of Representatives or two terms in the Senate is ineligible to be certified as a candidate for re-election. If elected as a write-in candidate, however, the person can serve.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: September 10, 1994

EO NUMBER :

PROCLAMATION NUMBER :

DOCUMENT DATE : September 08, 1994

DOCUMENT TYPE : Briefings

LOCATION :

SUBJECT : Haiti; Democracy; Cuba; United States; Department of Justice; Health

TITLE : BY DEE DEE MYERS

DOCUMENT TEXT:

Q What about on term limits? The President supports the Justice Department's memorandum opposing term limits?

MS. MYERS: The President has generally said over the course of the last 10 years that he has some real reservations about term limits. Again, I don't know specifically with reference to the DOJ memo. But his position on this is something that he's talked about at great length over the course of the last several years. He does have some problems with term limits and believes that voters

should have the opportunity to elect their leaders. But I will take it and see if we have anything more on that.

Q Dee Dee, when Congress comes back next week and you kick it in until the break for the elections, what will the President be doing right away to try and put some energy back into the move for health care reform? Does he have something set up next week? Is he bringing people to the White House? Going there? Is there anything that you can tell us about trying to rejumpstart the health care

(1814) Please check the syntax of your field test.

Error found at position 6 of the entered text.

FIND DOCUMENTS FROM DATABASE WHERE

term limits

EO NUMBER :
 DOCUMENT DATE : November 29, 1994
 DOCUMENT TYPE : Briefings
 LOCATION :
 SUBJECT : GATT; Bosnia; United Nations; United States; NATO; Congress; Electi
 TITLE : BY DEE DEE MYERS
 DOCUMENT TEXT:

Q The Supreme Court today had arguments in the term limit case, and I wonder where the White House stands right now on term limits, especially on whether states can set term limits for members of Congress.

MS. MYERS: As you know, the Solicitor General is representing the government on the no side of that. The President's position has been that -- what he favors is campaign reform, political reform, as opposed to term limits. There are a lot of

complicated issues involved in this case. We obviously have not taken a position specifically on the case, but on the broader question the President has said in the past that what he favors, again, is campaign finance and political reform.

Q Dee Dee, both the 200,000 Salvadorans in this country and close to 40,000 Guatemalans that are here on a temporary permit that was approved by President Bush in 1990, renewed by him once, and President Clinton has renewed it. The renewal is coming up

Action > (Add,Delete,Exit,Find,Help,Match,Print,Replace,Show,>,<?)
 Member# 7 of 7 for Set 2 (For Delete, Replace and Show)

Term Limits

- 1) S.Ct. case pending - whether const. for states
to adopt term limits - Doug was on the brief
- U.S. = amend'ed = unconst'l
- 2) ^{Congress activity} Const'l amendment
- Legisla. ?

ask Julie re:
Toll's file

- 3) POTUS has said previously
a) Pres. debates - impede power of small states
↳ signed to comp./job ref. (security = power)
↳ after elec. = jokingly
- 4) Ab has said a little
- retroactive if they do amend const'n

Tell Bob Dammus + Legis. referral

Martha Foley - keeps a tab on contract thing.

All purpose const'n = conservative

- 5) Letter from T. Kim. Ass'n

Date: 05/22/95 Time: 10:15

The broadly worded 5-4 decision could put more pressure on

The broadly worded 5-4 decision could put more pressure on Congress to pass a constitutional amendment that would limit anyone in the House or Senate to a fixed number of terms.

But the ruling also closes down one avenue state action to imposing such limits.

Passage of a constitutional amendment, disfavored by some Republican leaders, has proved difficult so far. It requires a two-thirds vote in each chamber. And once enacted by Congress, any proposed amendment would have to be ratified by 38 states.

Congressional reaction to today's decision also could loom large as an issue in the 1996 elections.

MORE

APNP-05-22-95 1017EDT

Date: 05/22/95 Time: 10:36

WASHINGTON: the Constitution

Disgruntled voters who think career politicians have lost touch with them have made term limits a political whirlwind since 1990, when Colorado voters adopted the first congressional term-limits measure.

But opponents to term limits contend voters already have the power to limit the terms of members of Congress by simply refusing to re-elect incumbents.

They argue that a term-limits amendment will result in a Congress run by amateur politicians influenced too much by career staff members and special-interest lobbyists.

Besides Arkansas and Colorado, congressional term limits were approved by Alaska, Arizona, California, Florida, Idaho, Maine, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington and Wyoming.

The case is U.S. Term Limits vs. Thornton, 93-1456.

APNP-05-22-95 1038EDT

Date: 05/22/95 Time: 10:35

WASHINGTON: court agreed

Noting that debates over term limits date back to the framing of the Constitution, Stevens offered this summary of both sides:

''Term limits, like any other qualification for office, unquestionably restrict the ability of voters to vote for whom they wish. On the other hand, such limits may provide for the infusion of fresh ideas and new perspectives, and may decrease the likelihood that representatives will lose touch with their constituents.''

Stevens added: ''It is not our province to resolve this longstanding debate. We are, however, firmly convinced that allowing the states to adopt term limits for congressional service would effect a fundamental change in the constitutional framework.''

The court found little guidance from two of its previous decisions cited most often by both sides in the constitutional debate over term limits.

Proponents cited a 1974 decision in which the court upheld a California law denying a place on the ballot to a would-be independent candidate if that candidate had registered as a party candidate or voted in the immediately preceding primary election.

Opponents cited a 1969 high court ruling that barred the House from excluding a member who met the age, citizenship and residency qualifications spelled out in the Constitution.

MORE

APNP-05-22-95 1037EDT

Date: 05/22/95 Time: 10:10

WASHINGTON (AP) States may not limit the time anyone serves in

WASHINGTON (AP) States may not limit the time anyone serves in Congress, the Supreme Court ruled today. The court struck down as unconstitutional an Arkansas term-limit measure, a step 21 other states have taken in various forms.

MORE

APNP-05-22-95 1012EDT

Date: 05/22/95 Time: 10:12

Supreme Court) -- The Supreme Court has struck down

(Supreme Court) -- The Supreme Court has struck down
state-imposed term limits for Congress.

APNP-05-22-95 1014EDT

Date: 05/22/95 Time: 10:13

The Court ruled that an Arkansas term-limit measure is

The Court ruled that an Arkansas term-limit measure is unconstitutional. Twenty-one other states have passed similar laws.
APNP-05-22-95 1015EDT

Date: 05/22/95 Time: 10:27

WASHINGTON: this question

Arkansas voters amended their state constitution in 1992 to limit how many times someone could appear on the ballot. Those who had served two six-year terms in the Senate or three two-year terms in the House could run, but only as write-in candidates.

The measure was challenged successfully by the League of Women Voters of Arkansas. The state Supreme Court ruled that states cannot add to the Constitution's list of qualifications for congressional membership minimum age, state residency and U.S. citizenship for a number of years.

Arkansas officials appealed, saying another constitutional provision, giving states the power to control the "times, places and manner" of elections, means state-imposed term limits are lawful.

The Clinton administration argued that states have no such power.

Today, the nation's highest court agreed.

MORE

APNP-05-22-95 1029EDT

March 24, 1995

cc: Kathy Whalen

MEMORANDUM FOR JIM KOHLENBERGER

FROM: MICHELA ALIOTO

RE: GORE & TERM LIMITS

There have been votes on term limits in every Congress since the 96th. The Vice President voted on term limits while he was in the House in the 96th, 97th, and 98th Congress'. The Vice President also voted on term limits while he was in the Senate in the 99th, 100th, 101st and 102nd Congress'. However, the only one of these votes recorded was in the Senate's 102nd Congress.

In the 102nd Congress, the Vice President voted against term limits. Specifically, on May 21, 1991, Al Gore voted to table a Brown Amendment to S. 3, a Boren campaign finance reform bill. The Brown amendment would have limited Senate terms to two full terms -- twelve years.

It should be noted that we researched this through Legislate and Congressional Quarterly. Legislate only goes back to 1979 (96th Congress) and so we looked in the Congressional Quarterly Almanacs before 1979, back to 1976 and the Vice President's first term in the House. Nothing more was found.

\$200B tax cut package has skeptics in House

USA TODAY • THURSDAY, MARCH 9, 1995

By Richard Wolf
USA TODAY

Voters are telling Congress they want deficit reduction and their favorite programs protected — enough to threaten the \$200 billion in tax cuts promised in the Republican Contract with America.

House Ways and Means Committee Chairman Bill Archer, R-Texas, will outline the package today, marking the start of GOP leaders' determined effort to pass it during the next month.

Right now, there's a lot of momentum for passage in the House. The cuts, including a 50% cut in the capital gains tax rate and a \$500-per-child income tax credit, were part of the contract signed by GOP candidates last fall, and Republicans don't want to renege.

But some in the House are having second thoughts about the size of the package, which could cost \$700 billion over 10 years, and they worry about the political wisdom of offering a tax credit for families earning up to \$200,000 a year.

Back home, members say they hear two refrains:

► Deficit reduction is more important. "I've had groups where not a single hand has gone up for tax cuts," says Rep. Sherwood Boehlert, R-N.Y., a moderate Republican.



AP
ARCHER: House Republican will lay out plan today

► Spending cuts are hard to swallow. "We look as a party insensitive when here we are cutting a lot of programs ... and we don't apply that to the deficit," says Rep. Ray LaHood, R-Ill., one of 73 GOP freshmen.

With Senate approval of any tax cut in doubt, House GOP leaders want to lay down a marker from which to bargain and don't want to talk about scaling back.

But moderates and freshmen are key to passing the package. And while the Ways and Means Committee seems sure to approve it next week, a floor vote is less certain.

The GOP leadership re-

mains committed to the full package. But GOP Conference Chairman John Boehner, R-Ohio, admits, "We have to grow the votes."

Their strategy:

► GOP members will be reminded it was the backbone of their contract. "If we can't count to 10, you guys (the media) are going to kill us," says Rep. David Hobson, R-Ohio.

► Spending cuts will be identified, although not in detail, that will ensure the cuts don't increase the deficit. "We're going to have the offsets to take care of it," Archer says.

► The Rules Committee will permit only complete substitutes for the GOP measure, rather than amendments. So if a member wants the capital gains cut, for instance, he must vote for the entire package.

Rules panel chairman Gerald Solomon, R-N.Y., favors deficit reduction before tax cuts and may be sympathetic to an alternative.

Other possible alternatives: Phasing in the middle-income tax credit or lowering the \$200,000 income threshold under which it is offered. "I wouldn't be surprised if it had to be changed somewhat," says Rep. John Linder, R-Ga.

"It was a great idea last fall," says Rep. Glen Browder, D-Ala. "But they're having difficulty with it now."

GOP sets term limits aside

House to grapple with amendment for 3 more weeks

By Mimi Hall
USA TODAY

Republican House leaders, facing an embarrassing public fight and near-certain defeat of one of their most popular campaign issues, late Wednesday postponed a vote on a constitutional amendment to limit congressional terms.

"They're saying, 'Let's have a train wreck later rather than sooner,'" said Paul Jacob of U.S. Term Limits. "They have screwed up this issue."

A vote on a constitutional amendment limiting members of the House and Senate to 12 years had been scheduled for Monday. But Wednesday, after Jacob's group attacked the version up Monday, the vote was delayed for about three weeks.

"We just want to get an opportunity to build up some momentum," said Ed Gillespie, spokesman for House Majority Leader Dick Army, R-Texas.

Many Republicans campaigned on the term-limits issue last fall. The GOP's Con-



Gannett News Service
McCOLLUM: Sponsors amendment for 12-year limits

tract with America promised a House vote within 100 days.

But now House members face the prospect of limiting their own terms. Most Democrats oppose the idea, and it has caused infighting among Republicans, who can't agree whether or for how long terms should be limited.

Some House members support the so-called 12-12 constitutional amendment sponsored by Rep. Bill McCollum, R-Fla. Others say Congress should follow the lead of at least 15 states and pass a measure allowing senators to serve 12 years, but

House members only six.

Still others, including Judiciary Committee Chairman Henry Hyde, R-Ill., oppose any limits, making it unlikely a bill could win the 290 votes needed to pass the House.

Last week, members of Hyde's panel angered term-limits advocates by agreeing to wipe out existing state term limits; they'd also limit members only to 12 "consecutive" years. That means a lawmaker could serve 12 years, sit out an election and run again.

The debate has left term limits advocates feeling "betrayed," Jacob says.

He says Congress should scale back from a constitutional amendment and just pass a statute giving states the authority to set their own term limits.

Twenty-two states have done so; backers say a law would prevent court reversals.

But House Speaker Newt Gingrich has said there won't be a statute vote until summer.

Gillespie acknowledges it may be impossible to win 290 votes on any version of a constitutional amendment.

Still, if House members spend a couple of weeks working out their differences, "I think we can make it more likely than it is right now."

Geological Survey tries to hold its ground

Republican budget cuts target agency

By Tibbett L. Speer
Special for USA TODAY

SAN ANSELMO, Calif. — U.S. Geological Survey scientists arrive in Ventura County today to search waterlogged hillsides for signs of a repeat of this week's mudslide that buried nine homes in La Conchita.

But if House Republicans in Washington have their way, such research could be coming to an end.

Led by Budget Committee Chairman John Kasich, R-Ohio, they want to scuttle the Geological Survey under their Contract with America to cut federal spending.

"People don't like hearing this, but we have put every program, every department, and every agency — except Social Security — under the microscope for scrutiny," says Bruce Cuthbertson, Kasich's spokesman.

Kasich has tried when Democrats controlled Congress to eliminate the agency, saying its work could be done by other parts of the government or by private organizations.

Kasich has taken aim at President Clinton's request for \$586 million for the agency, which monitors earth movement and water quality; estimates supplies of oil, natural gas and coal; and maps the nation.



By Joe Marquette, AP

ON THE LINE: Budget Chairman John Kasich says the Geological Survey's work can be done by other agencies. At right, geologist Steve Walter monitors earth movements in Menlo Park, Calif. Californians fear losing sensors that could help predict an earthquake.

The budget cutters estimate that eliminating the agency would save \$3.3 billion over five years.

But the Republicans are facing heavy criticism, primarily from California, Hawaii and Alaska, where earth movements are devastating.

Californians worry about losing sensors monitoring the forces that cause earthquakes. In Hawaii and Alaska, the fear is loss of a system to predict volcano eruptions.

California's 500 sensors cost \$10 million a year from the survey's



By Ben Margot, AP

\$50 million earthquake budget.

"You can rely on science and knowledge to predict where your problems are, or you can wait for the earthquake to show you," says Thomas Tobin of the California Seismic Safety Commission. "The first is more humane."

Natural disasters cost \$55 billion last year, but Geological Survey supporters say the price tag would be much higher without the agency.

They point to differences between earthquakes in Kobe, Japan, this

year and Northridge, Calif., last year.

Both measured 6.7 on the Richter scale. But the Kobe quake caused 5,100 deaths and \$100 billion in damage. The Northridge quake caused 57 deaths and \$30 billion damage.

Geological Survey supporters credit the agency's detailed soil maps that determine where buildings safely can be located as one of the reasons for the differences.

In Hawaii, survey scientists work 20 feet below the rim of Kilauea volcano to watch for possible eruptions.

Scientists say that already has paid off. "We informed people (in 1990) that they had six hours to evacuate," says David Clague, scientist in charge of the Hawaiian Volcano Observatory. Lava buried an entire town, but only one person was killed.

The agency does other research.

"There's a USGS piece of data that's critical to what people like me are doing everywhere in the country," says Kay Whitlock, flood control manager for the Santa Clara Valley (Calif.) Water District.

In January, when record-breaking rains turned streams into swollen, fast-flowing menaces, measurements by a survey water gauge in the Guadalupe River enabled district officials to get sandbags in place hours before the flood tide hit. Damage was minimized as much as possible.

About half of the survey's budget "goes to measuring the quality and quantity of water resources," says spokesman Don Kelly. The goal, he says, is to see "if all the money we're spending on the Clean Water Act is producing results."

"Eliminating the USGS will be like ripping out a smoke detector to save the cost of the batteries," says director Gordon Eaton. Since taking over last year, Eaton has trimmed the agency by 1,130 employees to 9,000 and cut senior staff by 40%.

That should be enough to save the agency, says Tobin, whose group promotes lowering earthquake risks.

He calls the survey's predictions of earthquake activity "sobering and useful information."



By Gary Phelps, Ventura County Star via AP
IN LA CONCHITA: Scientists will look for signs of another mudslide.

The Republican Recession?

In March 1994, the Center for International Business Cycle Research at Columbia University predicted that a new recession might very well begin before the end of 1996. The center still says "might," but its forecast is beginning to look more solid.

If the forecast stands up, it will surely have political ramifications. The Republicans have cheerfully taken over Congress,

Speaking of Business

By Lindley H. Clark Jr.

and with that a major share of the responsibility for anything government actions do to the economy over the next couple of years. President Clinton could, and probably would, say none of the bad things would have happened if you hadn't voted for the GOP last fall.

The center's forecasts are based on the ups and downs of the prime rate, the basic fee that banks charge on business loans. The prime rate was fixed for a number of years around World War II. It began to move only after the 1951 Treasury-Federal Reserve accord. The first business cycle expansion following this event began in 1954.

A paper prepared by Geoffrey H. Moore, director of the center, and Anirvan Banerji shows that, on the average, the seven business cycle expansions lasted more than four years while the prime rate continued to decline for nearly the first half of this period. The longer the prime rate continues to decline, the longer the business expansion lasts. Low interest rates, obviously, encourage the spending and investment that help to keep the expansion going.

The current business expansion began in 1991. Until March 1994 the expansion was helped along by a flat prime rate; the

rate was 6% and it stayed there. In March 1994, however, major banks raised the prime quotation to 6.4%, and the rate has continued to move up ever since. It now stands at 9%.

The expansion, in other words, has stopped getting help from cheap money. Last March, when the rate rise began, the center predicted that the next recession will begin in December 1996, assuming that the prime rate does not fall back to its low in coming months.

Well, there surely has been no prime rate decline. So making a reasonable allowance for error, the center suggests the next recession will start between mid-1996 and early 1997. The forecast looks even better than it did in early 1994.

All of this may sound speculative to some people, but it has worked well for nearly four decades. Maybe the Republicans should figure out a way to blame it all on the Democrats.

Term-Limit Forces Risk Self-Defeat

Your Feb. 10 editorial "Honor Thy Contract" was in error when it stated that my term-limits constitutional amendment proposal "would wipe out shorter limits approved by 19 states. . . ."

While I strongly believe congressional term limits should be uniform throughout the 50 states and that the total length of time permitted to be served in the Senate and the House should be the same, my term-limit bill contains no state pre-emption provision.

Virtually all state term-limit initiatives are based on restricting ballot access, not altering the qualifications for holding congressional office. Generally they provide that after so many consecutive terms, a person's name may not appear on a printed election ballot, although he or she may stand for office as a write-in candidate. My term-limit amendment, which has more than 140 co-sponsors, alters the qualifications for holding congressional office. If the Supreme Court upholds the state ballot access limitations, my proposal, as currently written, would have no effect on these state ballot access provisions.

I do believe, however, that uniformity of congressional term limits throughout the nation is highly desirable and will consider offering an amendment providing such uniformity and pre-empting the states in this area on any term-limit proposal that comes forth. If the decision on congressional term limits is left up to the states, there will always be some that do not limit their terms at all and wide variations among those that do. Over time this is bound to distort the legislative process in ways detrimental to the public interest.

The Journal has been a positive force in advancing the term-limits cause, and I hope it is not now considering joining forces with those who would rather have no constitutional amendment on term limits than not get their version. An amendment that provides for a 12-year limit for both the Senate and the House is the only version that stands any chance of gaining the two-thirds vote in both the House and Senate required to send a constitutional amendment to the states for ratification. If the cause of term limits is to succeed in this Congress or in any Congress in the foreseeable future, those who support it must be united in the drive for final passage behind the version that has the best chance of success.

A healthy debate over the various options is perfectly acceptable, but the destructive force of U.S. Term Limits—a grass-roots term-limit organization—in recently hatching House members who

favor 12-year term limits is irrational and self-defeating.

REP. BILL MCCOLLUM (R., Fla.)
Washington

* * *
Your Feb. 10 editorial states that I approved a "large pension increase" for Knoxville's police officers and firefighters in return for their support in fighting against a term-limits referendum. Under the City Charter, any increases in pension benefits for any group of municipal employees must be approved by a majority of city voters.

The increase in the pension benefits for the uniformed bodies was overwhelmingly approved by 74% of the voters of the city of Knoxville last Nov. 8. I endorsed the measure to increase pension benefits long before the petitions to have a vote on term limits were turned in to the Election Commission.

The inference that a deal was cut to get the police and fire departments to work against the term-limits question is totally incorrect. Both questions were publicly debated and considered by the voters on their own merits.

VICTOR ASHE
Mayor
President, United States
Conference of Mayors
Knoxville, Tenn.

The Republicans Seize the High Ground on Transracial Adoption

Here's a twist: House Republicans, under the aegis of the Contract With America, are coming to the aid of defenseless little African-American children while the Clinton administration sits on the sidelines.

The issue is transracial adoption. A bill sponsored by liberal Democratic Sen. Howard Metzenbaum last year was supposed to prevent discrimination in adoption cases because of race. But Mr. Metzenbaum, now retired, laments that his effort—endorsed by President Clinton—was hijacked by the Department of Health and Human Services, apparently to placate black social workers who have



Politics & People

By Albert R. Hunt

long opposed transracial adoption as "racial genocide."

House Republicans, led by Rep. Jim Bunning of Kentucky, leapt into the breach and, as part of the big welfare bill approved by the House Ways and Means Committee yesterday, would make it illegal for adoption agencies that get federal funds to discriminate. Although this would overturn the legislation that bears his name, Sen. Metzenbaum may support it.

The whole issue crystallizes larger problems the Democrats confront with race-based decisions. The efforts by the Clinton administration's Department of Health and Human Services to weaken transracial adoptions raise serious constitutional concerns, according to the Clinton administration's Justice Department.

This is precisely what enables critics to depict affirmative action as race-based special treatment rather than as an effort to fight past discrimination and promote diversity. In fact, affirmative action has been more successful

than the current debate suggests.

Few areas, for example, have been more controversial than integrating police and fire departments. But it's undeniable that in a lot of cities, it's safer today for the fire department to go into certain areas because the trucks aren't manned only by whites, and that community policing in high crime areas is more successful because of an influx of minorities.

The impact on the private sector has been real and beneficial. A personal example: When I joined this newspaper almost three decades ago there were precious few women or minorities on the news staff. Today about one out of five Journal news staff employees is a member of a minority group, and about 40% of the staff is female. As recently as 12 years ago there were no minority reporters in the Washington bureau and not that many women; today more than 10% of the Washington reporters are minorities and almost a third are women. Some more-qualified—on paper—white males may have been passed over. But The Wall Street Journal is a far better newspaper today because of a more diverse staff.

Yet opponents continue the canard about reverse discrimination, with ludicrous assertions like white males are an "endangered species." For all the racial progress we've made in America, can any sensible person say, with a straight face, that many white males would trade places with many blacks or women?

But it's also true that some affirmative action has outlived its usefulness and too often has been turned into politically destructive quotas. When race-based considerations become the dispositive factor, it offends most Americans.

That's the history of transracial adoption for the past 20 years. Because of the black social workers, thousands of black children have been disadvantaged: There are as many as 100,000 children in foster

care today waiting to be adopted, and 40% are African-American. These black children, on average, wait twice as long as white children to be adopted.

Howard Metzenbaum's view was simple: When there are two equally qualified prospective parents, preference can be given to same-race adoptions, and where there are special factors—a child who has been in several foster homes of the same race—racial factors can be considered. Otherwise, race never should be used to

The Clinton administration's Health and Human Services efforts to weaken transracial adoptions raise serious constitutional concerns, according to the Clinton administration's Justice Department.

delay finding, or to deny, a baby or a young child caring parents.

But by gutting this legislation in the closing days of the last Congress, HHS threatens not only to create lousy social policy but to cause constitutional problems too. Walter Dellinger, who heads the Justice Department's Office of Legal Counsel, privately has expressed "serious concerns" that the transracial adoption measure may permit race to play a broader role than is constitutionally allowed.

The courts have consistently held that race-based governmental decisions are impermissible except in the context of affirmative action, specifically meaning they either must redress prior discrimination or promote integration. Obviously, government sanctioned, race-based decisions on adoptions wouldn't qualify.

Mr. Dellinger has argued that guidelines should be adopted that very narrowly limit the use of race in any child-placement decisions. For instance, race could be considered only in the context of specific needs for a specific child. But privately HHS is considering guidelines that would allow delays of up to a year in order to find a adoptive parent of the same race. "That would be a cruel abomination and is totally contrary to what I, and President Clinton, intended," thunders Mr. Metzenbaum.

Jim Bunning, meanwhile, was not only following the GOP Contract but reflecting a personal experience too. His daughter's recent adoption of an African-American baby was delayed, apparently because of race-based considerations. He and Mr. Metzenbaum talked on Tuesday for the first time and are in basic agreement.

One legitimate concern of some African-Americans has been that adoption can be so expensive—\$5,000 to \$10,000 is not unusual—that it amounts to economic discrimination. But another part of the GOP Contract promises a \$5,000 refundable tax credit for adoption for anyone making up to \$60,000. Although some tax experts worry that the refundable credit invites fraud—early indications suggest ominous levels of fraud in the heralded earned-income tax credit—Rep. Bunning insists "we'll keep the refundable part" of that tax break in subsequent legislation.

The congressional Republican agenda is largely oblivious to the plight of black children. Moreover, as the National Council for Adoption complains, the separate GOP plan to turn foster care and adoption assistance into block grants to the states inadequately protects the interests of some of these innocent children.

But on the symbolic issue of transracial adoption, Jim Bunning has put the GOP on the high ground, as President Clinton is undercut by his own Department of Health and Human Services.

George F. Will

Chief Illiniwek and the Sensitivity Cavalry

CHAMPAIGN-URBANA, Ill.—Come for a walk on the wild side, in the hostile environment of the law pertaining to hostile environments. Actually, "law" may be a misnomer, as we shall see in the controversy concerning Chief Illiniwek, yet another example of how compulsory compassion threatens freedom.

At halftime of a University of Illinois football game in 1926, a student of Indian culture performed a dance dressed as a chief. Since then Chief Illiniwek has become the symbol of the university that serves the state where once lived the Illini tribe that was virtually annihilated by an enemy tribe in the 1760s.

In 1930 the undergraduate then portraying Chief Illiniwek traveled to South Dakota to receive authentic raiment from the Oglala Sioux. In 1967 and again in 1982, representatives of the Sioux came here to present outfits for Chief Illiniwek to wear in his performances at halftimes of football and basketball games. Until the mid-1980s the chief was an uncontroversial and revered tradition keeping alive the memory of the vanished Illini tribe.

Then came the rise, particularly on campuses, of identity politics, with grievance groups claiming special rights as reparations for historic wrongs. This produced in government a compassion industry backed by sensitivity police and thought vigilantes. Since then Chief Illiniwek has been under attack.

Compassion, contemporary liberalism's core value, involves the prevention

or amelioration of pain, including the pain of offended sensibilities. Groups compete to be the most offended, and compassion referees must decide which offenses to which groups matter. A few people, mostly but not exclusively Native Americans, say Chief Illiniwek is offensive, a racist Little Red Sambo who must be banned in the name of tolerance and respect for multicultural diversity. Permanent exclusion of the chief is "the only ethical solution," according to a university body called the Inclusivity Committee.

In a complaint to Illinois' Human Rights Commission, a Native American non-student activist cited the state law making it a civil rights violation to "deny or refuse to another the full and equal enjoyment" of any public accommodation. He said the symbolism of the chief as "mascot" was so offensive to him that he could not enjoy himself at the stadium or elsewhere on campus.

The commission replied that the relevant definition of "enjoy" as used in the law is not "to get pleasure from" but "to have the use or benefit of." The commission noted that if the complainant pre-

vailed, African American groups could get the state to prevent showings of the film "Birth of a Nation," Jewish groups could wield the law against performances of "The Merchant of Venice" and Native American groups could prevent screenings of many cowboy movies.

The chief's tormentors have tried to thwart him with the American Indian Religious Freedom Act, but unfortunately for them that law does not make it illegal to impersonate an Indian. They tried the Migratory Bird Act,

which makes some possession of eagle parts illegal, but it turns out the chief's headdress is made of turkey feathers. So now the Chief's enemies are turning to Title VI of the 1964 Civil Rights Act, which prohibits racial discrimination in federally assisted educational institutions.

In democratic theory, the legitimacy of a law depends on the authorship of it by elected representatives. But in contemporary America, after representative institutions have done their work, regulation writers, unelected and anonymous, take over, filling page after page of the

Federal Register with additional "law," as in the edition of March 10, 1994.

There the U.S. Department of Education said Title VI prohibits not only discrimination but harassment; that harassment includes the existence of a "hostile environment"; that the environment is hostile if it would seem so not just to a reasonable person but to "a reasonable person, of the same age and race as the victim, under similar circumstances." That comes close to making any claim of felt hostility in the environment a self-validating charge of racial discrimination.

Chief Illiniwek probably will survive because the arguments against him are so strained and because many Native Americans recognize in his role a compliment from the university to their heritage. But attempts to wield the government against him demonstrate how freedom is under siege as spurious "rights" are asserted. (Says one Native American, "Native people should have the right to determine how their image is used.")

The controversy illustrates how the forces of political correctness pressure government to grow in size and arbitrariness in order to pursue a peculiar compassion mission. That mission is to assuage the hurt feelings of groups for which taking offense is a political agenda, and to reform the psyches of any individuals slow to conform to the new sensitivity. No wonder liberalism's work is never done.



Robert D. Novak

Term Limit Turnaround

The extent to which the House Republican leadership has broken faith with voters on term limits is measured by Speaker Newt Gingrich's remarkable tactical switch.

A month ago, Gingrich saw a clear way to avoid a bloody collision between the Republican Party and the term-limits movement. He would back a statute—requiring only a simple majority to pass—that would authorize states to determine the maximum duration of congressional service. But he now has withdrawn his support. As a result, amending the Constitution will be the only option, and that will fall short of the needed two-thirds vote next Tuesday.

The "Contract With America" clause most popular with Republican voters will be rejected because it is least popular with Republican politicians. The impact will be immediate, violent and enduring. Such is the bitter fruit harvested when politicians pretend to support something they really oppose.

"I feel sold out," Howie Rich, the New York businessman who heads the U.S. Term Limits organization, told me. "We had an agreement from the speaker of the House to support the bill to let states set the limits, but he decided not to do it." As for Gingrich's view of U.S. Term Limits, the speaker told me: "They don't have a clue about how to run this country."

The term-limits movement was vital to the Republicans' capture of the House, but deep disagreements were muted during the campaign. A six-year limit for

House service, the number approved by most of 22 state ballot propositions, is insisted on by U.S. Term Limits. Republican leaders profess to want 12 years, but it is clear they prefer no limits at all.

Civil war between the GOP and term limiters threatened early in January when Rep. Bill McCollum of Florida, principal House Republican sponsor of term limits, called for federal preemption of state-imposed limits. But Sen. Hank Brown of Colorado, voluntarily limiting himself to six years in the Senate, on Jan. 24 introduced a statute saying "each state may prescribe the number of terms a person may be elected" to Congress no matter what the Supreme Court decides in a pending suit on constitutionality of state propositions.

Gingrich saw this as a federalist approach, needing only a simple majority of 218 votes, instead of 290 for a constitutional amendment. At his Feb. 8 press conference, he spoke favorably of the Brown bill: "I am very committed to doing everything we can to help the term-limits movement. We have an obligation there. It's what we campaigned on." On Feb. 14, meeting with U.S. Term Limits, the speaker endorsed the Brown bill.

So, what changed his mind? "The more I thought about it," Gingrich told me, "the more I concluded, this is crazy . . . trying to run this place on a six-year term. It would be genuinely destructive of the country." That is precisely the position taken by other Republican leaders who opposed term limits from the start: Sen.

Robert Dole, Sen. Trent Lott, Sen. Orrin Hatch, Rep. Tom DeLay and Rep. Henry Hyde.

But that runs counter to what Republican voters asked for Nov. 8 and what newly elected Republicans are demanding now. Rep. Mark Sanford, a 34-year-old real estate broker, won nomination for a South Carolina House seat against the heavily favored Van Hipp, a former state party chairman, by pledging to quit after six years in the House. Now, Sanford has introduced a House version of the Brown bill in defiance of the powerful speaker.

In contrast to disciplined procedures for other contract items, the House next week will consider a mishmash of conflicting term-limits proposals. The version approved by the Judiciary Committee is a monstrosity sponsored by Republican Rep. George Gekas of Pennsylvania to permit 12 years in the House, a two-year break, followed by a second 12 years, while preempting all state-imposed limits. The Brown-Sanford approach will not be considered.

The price will be high. Republican strategist William Kristol worries that defeat for term limits and victory for tort reform "will expose Republicans to the charge that they only fight hard to pass things that big business wants." He asserts that term limits "will result in more deficit reduction than the balanced budget amendment." That's a message Republican leaders prefer not to hear.

"THE STATE AND LOCAL GOVERNMENTS CAN HANDLE THINGS BEST"



From the introduction to "The Most Repressive Regimes in the World," a special report to the 51st session of the U.N. Commission on Human Rights:

Despite the collapse of Soviet communism and the end of the Cold War, much remains to be done to sustain global momentum toward a "new world order" respectful of human rights and based on the rule of law. While the 1994-1995 Freedom House annual "Survey of Freedom" showed a modest increase in the number of free societies from 72 to 76, nearly 40 percent of the world's population lives in 54 countries that are "not free," where basic rights are denied.

The survey, which provides reports on 191 countries and 58 related territories, shows that the countries which Freedom House labels as the "worst violators" increased from 20 to 21 over the last year, while six related territories also fell into that category. Most of these countries share one or more of the following characteristics: (1) they are neo-Communist or post-Communist transitional societies; (2) they are multi-ethnic societies in which power is not held by a dominant ethnic group, i.e., a nation that represents more than two-thirds of the population; (3) they have a majority Muslim population and frequently confront the pressures of fundamentalist Islam.

... This year the "worst violator" countries are: Afghanistan, Algeria, Bhutan, Burma, China, Cuba, Equatorial Guinea, Iraq, North Korea, Libya, Mauritania, Rwanda, Saudi Arabia, Tajikistan, Turkmenistan, Uzbekistan and Vietnam. The six related territories are: East Timor (Indonesia), Irian Jaya (Indonesia), Kashmir (India), Kosovo (Yugoslavia), Nagorno-Karabakh (Armenia/Azerbaijan) and Tibet (China).

LETTERS TO THE EDITOR

The Debate About Student Loans

Sen. Paul Simon's March 2 letter—which responds to The Post's Feb. 14 front-page story about the issue of direct government loans for college students—ignores the substance of the debate and instead levels an attack on USA Group Inc., the nation's leading guarantor-administrator of student loans.

Sen. Simon's letter continues an unfortunate pattern in which the proponents of government lending try to discredit those who disagree with them, and he recklessly disregards the facts about USA Group.

USA Group is proud of its public service to millions of American stu-

dents, but that work doesn't make us public employees. The company was established as a nonprofit corporation in 1960, five years before enactment of the Higher Education Act, which created the guaranteed student loan program. From its inception, a major portion of revenues has derived from non-guarantor activities serving higher education.

USA Group affiliates annually open their books for numerous independent audits, including those undertaken by federal agencies. Contrary to Sen. Simon's unsubstantiated assertion, USA Group has never taken taxpayer funds to start other businesses, and these audits clearly demonstrate our compliance with the highest fiduciary standards.

USA Group's voice of experience, which Sen. Simon attempts to silence, is warning the nation's thoughtful policymakers—and there are many on both sides of the aisle—about the pitfalls they risk by accelerating government lending before we know whether the government can effectively operate a \$25 billion to \$30 billion a year consumer loan program.

The politics of vilification has no place in the debate. Let's hope that reason and fact prevail in determining whether government lending is in the best long-term interests of students, schools and taxpayers.

ROY A. NICHOLSON
Chairman and Chief Executive Officer
USA Group
Indianapolis

The New Jacobin Majority

House Speaker Newt Gingrich got his doctorate in European history, so it's surprising he hasn't mentioned the first time term limits were employed. It was during the French Revolution.

In 1791 the Constituent Assembly, which had been meeting since 1789, created a new constitution for France. As part of that constitution, no one who had already served was eligible for reelection.

This was a terrible mistake. The newly elected assembly was responsible for:

- (1) Getting France, through catastrophic blunders, involved in a war that lasted almost 25 years.
- (2) Killing the king and queen.
- (3) Starting the Reign of Terror, which executed just about everybody who was worth anything in France.

I'm sure that modern term limits won't lead to such a disaster, but I prefer seasoned pros to the amateurs who brought the excesses after the French Revolution.

STEPHEN GALLUP
Bethesda

'Inoperative' PLO Charter

Israeli opposition leader Benjamin Netanyahu states that peace in the Middle East can only be considered realistic if Arabs are sincere and security arrangements to protect the state of Israel are a primary consideration [op-ed, Feb. 24].

He also states, however, that the only sincere Arab leader is Jordan's King Hussein and that PLO Chairman Yasser Arafat, with whom the Israeli government has signed an agreement, is not to be trusted.

Citing what he calls a proof of Arab insincerity, Mr. Netanyahu claims that Mr. Arafat is only "carrying out the 1974 Palestinian National Council decision" to destroy Israel. Mr. Arafat never promised to change the charter of his organization, but he did write Israeli Prime Minister Yitzhak Rabin on Sept. 9, 1993, affirming "that those articles of the Palestinian Covenant which deny Israel's right to exist, and provisions of the covenant which are inconsistent with the commitments of this letter, are now inoperative and no longer valid."

Mr. Netanyahu does not mention that Israel agreed to hold elections and withdraw its troops from the territories under Palestinian Authority rule and so has not fulfilled its promise in the Declaration of Principles.

While Israel does face considerable threats to its security, its situation is

exacerbated by the fact that it continues to occupy Arab lands—southern Lebanon, the Golan Heights and the West Bank—and treats the Palestinian people and Arab Israelis with disrespect.

If Mr. Netanyahu is concerned that the recent agreements are bound "to crash against the rocks of Middle Eastern realities," maybe he should consider how the vast majority of the residents of the region perceive Israel. They want to know if the Jewish state's intentions are sincere and if Israel's attempts to protect its borders are exactly what make its security arrangements untenable.

ABDERRAZZAK KOUAR
Washington

Term limits: A matter of trust

GOP promised a vote on something that could reduce its power, prestige. The party must keep its word.

WASHINGTON — Republicans beat a hasty retreat last week on the issue of term limits, canceling a vote scheduled for Tuesday.

Blame the delicious chaos of democracy. Although the party's Contract with America called for a vote on two different limits on service in the House of Representatives — three or six complete two-year terms — lawmakers couldn't resist the temptation to fiddle. At last count, nine different measures had made their way into the legislative hopper.

As proposals proliferated, disputes also began to erupt within the conservative clan. U.S. Term Limits, an organization that has worked tirelessly for the cause of cashiering comfortable incumbents, declared war on GOP members who backed bills that did not permit six-year limits, and furious Republicans retaliated by severing ties with the once-chummy group.



COUNTERPOINTS
By Tony Snow

Passions run high because the party's honor is at stake. Trust has become the key issue in American political life, and if Republicans fail to make good on their promise to hold an open and unambiguous vote on term limits, they could go the way of George Bush, with his no-new-taxes pledge, and Bill Clinton, with his New Democrat cant.

Democrat cant.

The party of Lincoln also appreciates the issue's popular appeal. Of the 24 states that let voters pass judgment on laws through initiative and referendum, 22 have adopted term limits. Hundreds of counties and cities have set up mandatory retirement plans for public servants, and more than 75% of the public wants the tide to swamp Capitol Hill.

Samuel Johnson remarked that a trip to the gallows concentrates one's mind wonderfully, and the prospect of electoral slaughter persuaded House Republican leaders to agree on a deal late Friday evening.

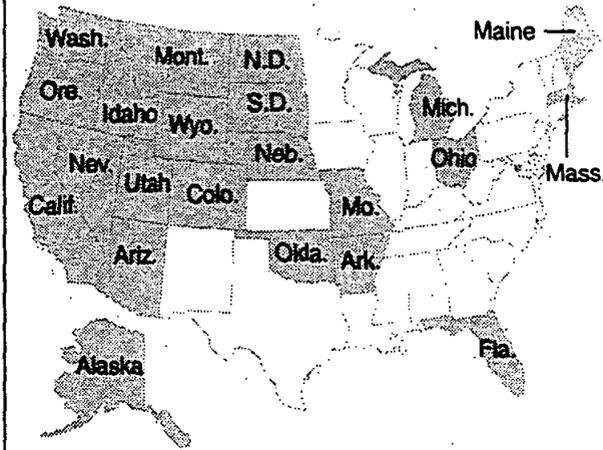
Under an agreement that GOP bigfeet plan to announce Tuesday, the House will settle matters March 27. The drama will unfold in two acts. First, members will cast lots on several versions of a proposed constitutional amendment. The bill that gets the most support then will go before the whole House for a yes-or-no vote. The contenders are:

- ▶ A Democratic measure to be named later. The betting now is that the minority party will suggest making term limits retroactive, thus forcing Republican leaders to choke down the medicine they have prescribed for future politicians. (A three-term limit, if enacted immediately, would decimate the Democratic Party while leaving nearly 150 GOP incumbents untouched.)

- ▶ A recommendation by Tennessee's Van Hilleary

Who has term limits

Twenty-two states have term limits on the books:



Source: U.S. Term Limits

By Cliff Vancura, USA TODAY

to force out House members after six full terms while permitting states to set stricter limits.

- ▶ Rep. Bill McCollum's proposal to create uniform maximum elected terms of 12 years for members of the House Senate.

- ▶ A measure, sponsored by Rep. Bob Inglis of South Carolina, to limit House service to three full terms (six years) and Senate tenures to two terms (12 years).

In essence, House members will decide two issues. The first is the "ideal" number of years in office. Many old-timers oppose the three-term target, arguing that Congress could not maintain its wonted dignity in a chamber stuffed with greenhorns. The average politician, these veterans claim, barely can locate restrooms, let alone master parliamentary intricacies, in just six years. Three-term advocates, meanwhile, accuse the old guard of power-madness.

The perfect-limit dispute comes down to pure aesthetics, not principles, which may explain why advocates are fighting with the unrestrained ferocity of Iraqis and Kurds. The thing has become personal, and former allies — like U.S. Term Limits and conservatives on Capitol Hill — seem to equate compromise with apostasy.

The second issue is federalism: Republicans say they want to return power and authority to the states, but the McCollum and Inglis amendments could impose Congress' will on everyone. Only the Hilleary recommendation seems to let states shorten terms if they so desire.

These and other technicalities (such as the decision to vote on a constitutional amendment rather than a statutory change) matter far more to honorables in Washington than to the rest of us. Even for term-limits foes like me, the issue has become honesty.

Republicans promised a vote on something that could reduce their power and prestige. Now they have to deliver, even though they can't assemble the two-thirds majority necessary to win.

The crucial issue is trust. At this pivotal moment for the GOP Congress, the final tally is far less important than Republicans' willingness to honor their word — and accept the consequences.

COUNTERPOINTS' four columnists provide views from diverse perspectives on today's issues. **Tuesdays:** Michael Gartner on concealed weapons; **Wednesdays:** Linda Chavez; **Thursdays:** Susan Estrich; **Mondays:** Tony Snow.

Queen Victoria was right

She succeeded by tying moral principles to social policy. Perhaps there's a lesson here for Gingrich.

The "Gingrich revolution," it is generally agreed, has altered the political landscape of America. It may well be altering the moral landscape as well. For it reflects a dissatisfaction not only with the state of the polity but with the quality of our lives.

In the early years of Queen Victoria's reign, when England was experiencing the growing pains of a young industrializing economy, Thomas Carlyle coined the phrase, "The Condition-of-England Question."

That question, he said, could not be resolved by "figures of arithmetic" about wages and prices.

It had to do with the more important question of the "condition" and "disposition" of the people, their sense of right and wrong, the attitudes and habits that would dispose them either to a "wholesome composure, frugality, and prosperity" or to an "acrid unrest, recklessness, gin-drinking, and gradual ruin."



By Gertrude Himmelfarb, author of the new book *The De-Moralization of Society: From Victorian Virtues to Modern Values*.

Today we are confronting a "Condition-of-America Question" far more serious than that of England a century and a half ago. We have progressed from a fledgling industrial economy to a post-industrial one, and the "figures of arithmetic" demonstrate a very considerable rise in the standard of living, even of the poor. Yet the "condition" and "disposition" of the people are more problematic than ever.

In Victorian England, illegitimacy declined from 7% to 4%. In the past three decades in the United States, it rose from 5% to over 30%. In Victorian England, crime declined by 50%. In the past three decades in the United States, it rose by 300%. (Violent crime rose by 500%.)

In Victorian England, illiteracy, drunkenness, violence, vagrancy and welfare dependency were considerably reduced. In the United States, they have considerably increased. In Victorian England, drugs were the exotic leisure-time vice of a privileged few (a Coleridge, or a Sherlock Holmes). In the United States, they are the addiction of large numbers of people who are totally incapacitated by them.

Victorian England was no Arcadia. It had all the problems that came with rapid industrialization and urbanization: overcrowded cities, overworked men and women (and unemployed men and women displaced from their old jobs), a grinding poverty among some workers and unfulfilled desires and potentialities among others.

Yet it was precisely then, in spite of all these difficulties, that England experienced a moral reformation — a "re-moralization" — that is in dramatic contrast to our own state of "de-moralization."

There is a lesson in this — not the emulation of a society in a vastly different stage of economic, technological, political, social and cultural development, but the emulation of an ethos that today, more than ever, has much to commend it.

When a reporter covering Margaret Thatcher's election campaign in 1983 observed, rather derisively, that she seemed to be approving of "Victorian values," Mrs. Thatcher enthusiastically agreed. "Oh, exactly. Very much so. Those were the values when our country became great." Later she commended her Victorian grandmother for teaching her those Victorian values: hard work, self-reliance, self-respect, cleanliness, neighborliness, pride in country.

For the Victorians, these were not only the values — or virtues, they would have said — of private life. They were the values governing public affairs as well. Every



By Web Bryant, USA TODAY

proposal for poor relief, for example, had to demonstrate that it would promote the moral as well as the material well-being of the recipients of relief by providing incentives to go off relief rather than remain on, and by encouraging those virtues of self-reliance, self-respect and self-discipline that would transform paupers into self-supporting workers.

Today we have so thoroughly divorced social policies from moral principles that we are threatening to de-moralize not only the poor but all of society. Our very language has been purged of moral content. Relief has become "welfare"; illegitimacy is officially known as "non-marital childbearing" or "alternative mode of parenting"; promiscuous teenagers are "sexually active"; juvenile criminals are "delinquents"; and coldblooded murderers are "victims of rage."

The statistics of crime, illegitimacy, welfare dependency, drug addiction — "moral statistics," the Victorians called them — are the symptoms of this de-moralization. And the recent electoral revolution signifies the attempt to reverse those statistics by re-moralizing social discourse, social policy and, thus, society itself.

If the Victorians, in that difficult period of industrial development, could effect a moral reformation in their society, we can do no less.

Gertrude Himmelfarb is distinguished professor history emeritus, City University of New York. She is also the author of several books.

✓Term Limits: Voters Aren't Schizophrenic

By EINER ELHAUGE

The House is bogged down over term limits. A major reason is that the conventional rationale for term limits—that citizen legislators are preferable to career politicians—has proved vulnerable to a telling critique. Why do the same voters who vote for term limits generally vote for their career politicians?

Even in the political earthquake of 1994, more than 90% of incumbents running won re-election. (The high turnover resulted mostly from retirements.) Yet term limits were popular nationwide. Pundits have had a field day insinuating that these voters are either schizophrenic or uninformed. Worse, term limits are dubbed antidemocratic because they prevent voters from retaining experienced incumbents if the majority wishes.

It's a telling argument. Yet perhaps what it tells us is not that voters are irrational or antidemocratic, but that the conventional rationale for term limits is wrong. Term limits are not, and have never been, about voters ousting their own senior representatives. They are about ousting the senior representatives of other districts. Ousting one's own senior representative is simply the price one must pay to achieve this result.

Why subscribe to a system that ousts all senior representatives? Because otherwise pork barrel politics creates perverse incentives for each district to vote for senior incumbents.

The problem is that each district enjoys the benefits from its pork but spreads the costs over all the districts. Of course, because each district does the same thing, the result is to impoverish the nation. But here lies the collective action dilemma: If perchance my district ousted our pork-providing representative, that would not

mean other districts would oust theirs. It would simply mean that none of the pork would likely come to my district.

Thus, as an individual voter, it is perfectly rational to oppose pork barrel politics but to vote for the representative who engages in it best. This also explains why polls show citizens generally like their incumbent but hate Congress.

The incentive to vote for a pork-providing representative becomes greater the

It is perfectly rational to oppose pork barrel politics but to vote for the representative who engages in it best.

more seniority, and thus clout, that representative has. Thus we see the Boston Chamber of Commerce endorsing Ted Kennedy, hardly a favorite of business groups nationwide, on the candid grounds that "with 32 years of seniority and experience, he's in a better position than ever to deliver for us." And for every conservative or moderate voting for Ted Kennedy despite his views, a liberal or moderate may be voting for Jesse Helms despite his.

Of course, voters can forgo the porcine benefits of seniority when the ideological strain becomes too great. Witness the remarkable ousting of House Speaker Tom Foley. However, it is not irrational for voters to want to rid themselves of a systemic pressure to vote for senior incumbents whether they like them or not.

This explains why voters pass term limits for state legislatures. However, why do they vote to limit the terms of their state's

representatives to Congress? If my state enacts federal term limits and other states do not, then my state forgoes its share of federal pork without ending it. The explanation is that term limits involve only a commitment for the future. They can be understood as an offer by each state to rid itself of senior incumbents if other states will do the same. Thus it is not surprising that term limits are invariably prospective. Nor is it surprising that their passage has occurred against the backdrop of term limit movements in every state.

What if other states do not fulfill their side of the national bargain by passing either their own term limits or a constitutional amendment that imposes term limits nationwide? Wouldn't those other states then just take advantage of their greater seniority to get a greater share of pork? They might try. But the states that enacted term limits would have remedies. They might rescind their term limits. Or—if enough states enacted term limits to form a national majority—their congressional representatives would likely abolish a seniority system that disfavored them.

Opponents thus err when they conclude that term limits are antidemocratic. Term limits are rather a logical corrective to a seniority system that itself has no basis in democratic theory. And Republicans err if they assume that ending Democratic control over Congress will have satisfied the appetite of voters for federal term limits. Voters know how to throw Democrats—and Republicans—out of power. What they want is to end a system that creates pressure on everyone to retain incumbents no matter what their political stripe.

Mr. Elhaug is a visiting professor of law at the University of Chicago.

Letters to the Editor

Famine Myths Produced Crop of Misery

Every time an Irishman or a credulous journalist repeats the myths about the famine of the 1840s he contributes to the emotions that have led to so much misery in the century and a half since it ended. Terry Golway, in his Feb. 23 Letter to the Editor, distorts some facts, ignores others, and adds some emotional twists that are typical of his type of argument.

Distorted fact: "... there was no famine, but simply the devastation of a single crop, the potato." The population of Ireland had nearly doubled in the years 1800-40, during which period Irish political leaders encouraged early marriage, denounced emigration and favored the subdivision of holdings, contrary to the policy of all British governments. That led to a steady reduction in the size of land holdings, of which in 1841 there were 300,000 under three acres in size, and another 250,000 from three to 15 acres. As might be expected, the vast majority of the land workers lived from hand to mouth. The primary subsistence crop was the potato, and when the blight, which appeared in North America in 1844, reached England and Ireland, its effect was devastating. In a few weeks the abundant harvest became a waste of putrefying vegetation. It is recorded that 21,770 persons died of starvation in the period 1841-51, the one million that Mr. Golway quotes being the total mortality in 1846-51. No famine?

Ignored fact: the British government took active measures to relieve the distress. Relief works were instituted and large quantities of maize were given out. In 1846 as many as 285,000 were employed on relief, rising to 734,000 in 1847. In the first six months of 1847, 2,849,508 quarters of maize worth, at the then-current prices, nearly nine million pounds, was imported, the greater part of which was distributed free. The U.S. also sent substantial supplies across the Atlantic.

Emotional twists: "Her Majesty's civil servants ... presided over one of the greatest human catastrophes in 19th-century history. ..." If he thought we would believe it, Mr. Golway would probably suggest that these fiends spread the blight themselves. And again: "As they left Irish ports, the starving emigrants saw ... Ireland's grain being loaded for ... Mother England." The emigration, which totaled 1.5 million in the decade following 1847, was in large part financed by British charities, and if migrants saw food being exported—and no doubt commercial arrangements continued, despite the troubles—only the simplest minded among them would see it as the cause of the famine.

RICHARD W.O. BENEY
Jupiter, Fla.

* * *

They Promote Hate, We Promote Help ✓

Never have I been more outraged than to read Paul Gigot's Feb. 10 Potomac Watch, which called Planned Parenthood "the Operation Rescue of the Left." The differences between Planned Parenthood and Operation Rescue are greater than the Grand Canyon is wide.

Operation Rescue is an unincorporated organization that encourages violent strategies to impede women's access to health services. The founder and leader of Operation Rescue, Randall Terry, is in federal prison for contempt of court.

Planned Parenthood is a health-care provider, with a 78-year track record of excellence and an outstanding reputation for providing quality services to women and men of all ages. We are the mainstream organization in every community in America. Business leaders, bankers, doctors, lawyers, educators—Republicans and Democrats—are members of our boards around the country.

Operation Rescue is a dangerous organization that has been waging a violent campaign to shut down women's health centers. Its leaders threaten, harass and intimidate women and health-care providers. Its activists spew hate in the faces of our clients and staff.

Planned Parenthood is committed to healthy women and healthy families. We are committed to ensuring that women have access to quality health care. We provide a full range of reproductive health-care services including Pap tests, cancer screenings and child immunizations to nearly four million Americans each year. Our counselors and educators ensure that women, men and teenagers have access to accurate information so that they—not the government or extremists—can decide what is best for them in their lives.

Paul Gigot is too smart to confuse these organizations accidentally. Let me make the distinction clear: While Operation Rescue works to dictate what people can do with their lives, Planned Parenthood works to educate, empower and enable individuals to make their own choices about their lives.

PAMELA J. MARALDO, PH.D., R.N.
President
Planned Parenthood Federation of
America

New York

CONSTITUTIONAL AMENDMENT

Limit on Consecutive Terms Heading to House Floor

While they are sharply divided over the issue of limiting congressional terms, House Republicans are virtually unanimous on one count: There is little support for the term limits bill awaiting their consideration.

Without issuing a recommendation, the Judiciary Committee on Feb. 28 sent to the floor a constitutional amendment that would impose a 12-year limit. The measure, sponsored by Bill McCollum, R-Fla., moved on by a vote of 21-14, with the support of only one Democrat. This marked the first time term limits legislation has been sent to the House floor.

But McCollum and other backers of term limits said that the way the committee amended the bill — which would apply the 12-year limit only to consecutive service — undermines the principle behind the idea.

The amendment means that 12-year veterans could return after sitting out an election, and McCollum and his allies are searching for a way to modify or even scrap altogether the Judiciary-passed measure. They would like the Rules Committee to bring to the floor instead a "clean" bill resembling the original draft of H J Res 2, which would impose a lifetime ban after 12 years of service. They could try to remove the offending provision by amendment, but that could be difficult if Democrats join some Republicans in voting to keep it in.

Republican leaders are expected to allow alternative constitutional amendments, particularly those that would cap House service at six or eight years, to be considered on the floor.

Proponents of term limits concede that none of the proposals looks likely to get the two-thirds majority (290 "ayes" if all members vote) necessary to approve a constitutional amendment. Getting to that number would require the

By Jennifer Babson



Term limit sponsor McCollum, left, confers Feb. 28 with reluctant ally Hyde.

be allowed to serve has been a crucial issue, and one not directly addressed by the House GOP's "Contract With America." The contract did not choose between House limits of six and 12 years. Disputes over this point have opened an internecine wound just as House Republicans are attempting to focus on completing their contract pledges.

Speaker Newt Gingrich, R-Ga., has said he favors a 12-year restriction. But hard-line proponents such as U.S. Term Limits, a grassroots lobbying and direct-mail group, have dismissed a 12-year cap as insufficient. The group prefers a strict six-year restriction, or even better, allowing states to impose their own caps.

Party discipline, which has been strong on other contract items, has waned when it comes to this issue. Some GOP leaders, such as Majority Whip Tom DeLay of Texas, Conference Chairman John A. Boehner of Ohio and Conference Vice Chairwoman Susan Molinari of New York, have said they oppose term limits.

A Supreme Court decision expected by this summer on the constitutionality of term limits approved in Arkansas and Washington state could shift the debate considerably. If the court rules that states have the right to impose their own caps on federal officials, the impetus for a constitutional amendment could fade — although incumbents then may be more inclined to back a constitutional change to provide for uniform restrictions. (1994 *Week* Report, p. 3451)

The political timetable does not allow House Republicans to slow down because their contract promised a vote on a measure to "replace career politicians with citizen legislators" within the session's first 100 days. Some advocates grumble that GOP leaders, including Gingrich, have failed to demonstrate much enthusiasm for an amendment.

BOXSCORE

Bills: H J Res 2, S J Res 21 — Congressional term limits.

Latest action: The House Judiciary Committee on Feb. 28 sent H J Res 2 to the floor by a vote of 21-14.

Next likely action: House floor.

Background: Both resolutions propose a constitutional amendment limiting members to 12 years in either chamber. The House measure would allow a member to run again after sitting out an election; the Senate resolution would not.

Reference: Weekly Report, pp. 590, 435, 339, 288; 1994 Weekly Report, p. 3346.

support of nearly 60 Democrats, and few have supported the idea.

GOP leaders have said the bill should hit the House floor the week of March 13.

The Senate Judiciary Committee on Feb. 9 approved S J Res 21, proposing a constitutional amendment to limit terms to 12 years in each chamber.

Exactly how long members should

✓
CWA
ambig

✓
GOP
Oppos

Contract:
vote
1/100 day

A GOP Splinter

At the Feb. 28 markup, Judiciary Republicans splintered over how or whether to embrace the issue of term limits. Panel Chairman Henry J. Hyde, R-Ill., under orders to move the legislation to the floor despite his opposition to it, dubbed term limits "a terrible mistake, a kick in the stomach of democracy," after the markup.

Hyde was not under orders to move any particular version to the floor. He did not caucus with panel Republicans before the markup, as he has before committee consideration of other contract items. That may have led to the defeat of the alternative amendments as well as to the revisions to H J Res 2.

The key move occurred when George W. Gekas, a seven-term Pennsylvania Republican, won adoption, 21-13, of an amendment to apply the 12-year restriction only to consecutive terms. Gekas said his amendment would still stem the power of "these lifetime chairmen yielding these long gavels for ever and ever."

"We're pretty well emasculating term limits," protested Howard Coble, R-N.C. But six Republicans joined Democrats to vote for the amendment.

Democrats displayed a remarkable harmony during the markup, with Barney Frank, Mass., doing his best to lengthen the proceedings and force Republicans into uncomfortable votes. Frank is likely to take the same role on the floor.

Frank offered an amendment to H J Res 2 that would apply the 12-year limit retroactively. "If in fact this is such a good idea, and if in fact, too many elections have a negative influence, I can see no reason whatsoever for putting this off," he said.

The committee rejected the amendment 15-20, but only after several Republicans, including Hyde and Carlos J. Moorhead, Calif., switched "aye" votes to "nays." Democrats may try to push this question again on the floor.

To the consternation of hard-line term limits supporters, the panel also adopted an amendment that would preempt any state term limit laws. Republicans were not eager to address this issue, but Democratic members of the panel forced them into making a statement.

The amendment was offered after the panel adopted a provision by Robert C. Scott, D-Va., to give states the option of capping term limits at a level below that mandated by the constitutional amendment.



RICHARD ELLIS

Barney Frank leads Democrats' counterattack on term limits at Feb. 28 markup.

McCollum argued that Scott's provision would cause "an imbalance in this Congress that is not healthy." He proceeded to offer an amendment that nullified the Scott language and made sure the constitutional amendment would pre-empt state laws.

"We are passing the buck if we do not decide what the length of time should be," argued McCollum. Panel Democrats could barely contain their glee at McCollum's decision to offer the divisive provision, and with the backing of some Democrats, the amendment was adopted, 24-11.

"Lots of folks on the other side don't believe in term limits, they don't want to see one pass," said Charles E. Schumer, D-N.Y. "But they've got orders from the top: 'We've got to pass the contract.'" A subsequent effort by Schumer to offer an amendment prohibiting term-limited members of Congress from working as congressional aides failed to win committee consideration.

The three alternate constitutional amendments rejected were:

- H J Res 3, sponsored by Bob Inglis, R-S.C., to limit House members to six years and senators to 12 years, by a 13-20 vote.
- H J Res 5, sponsored by McCollum, to limit House members to three terms of four years and senators to 12 years, by voice vote.
- H J Res 8, sponsored by Tillie Fowler, R-Fla., to limit House members to eight years and senators to 12 years, by a 15-20 vote.

States' Rights

The question of whether a federal restriction should override state-ap-

proved term limits is a touchy subject among term-limit supporters. Twenty-two states have passed some type of cap, at least 15 of them imposing six-year limits on House service. A bill introduced in the Senate by Hank Brown, R-Colo., and a similar House measure written by Mark Sanford, R-S.C., would allow the states to decide individually what kind of limits to impose. Because it would be a law, not a constitutional amendment, it could pass by simple majority, but it could be subject to a constitutional challenge, even if the Supreme Court rules in favor of state-imposed term limits.

✓
If Limit Enable State

Gingrich appeared to endorse the statute approach at a Feb. 7 appearance before the U.S. Chamber of Commerce, but has since distanced himself from the idea, saying the House should wait for the high court to rule.

While statute supporters have said they may seek the opportunity to debate the merits of this approach on the floor, GOP leaders are unlikely to grant floor time to such a measure.

Criticism of McCollum

Paul Jacob, executive director of U.S. Term Limits, had harsh words for McCollum, despite McCollum's role as cheerleader in the House for some type of limit. Said Jacob: "He is more of an impediment to the success of term limits than anybody else in Congress."

Jacob's organization has broken with House Republicans who have said they are willing to back the 12-year restriction if that has the best chance of approval on the floor. In February, U.S. Term Limits ran TV ads assailing four House Republicans for supporting the 12-year cap, dubbing it "the career politicians' phony, six-term career Congress bill." The group plans to run, starting March 4, TV ads in McCollum's Orlando district that chide him for championing a 12-year House limit after Florida voters in 1992 approved an eight-year restriction.

Term limits supporters are holding out hope that the resources of a coalition of grass-roots groups who have pledged to lobby for a term limits amendment — the Christian Coalition, the National Federation of Independent Business, United We Stand America and the National Taxpayers Union — will coalesce on the eve of House consideration. Many of these groups have been caught up in the Senate battle over the balanced-budget amendment.

✓
Coalition

CONSEC. TERMS PROH. GEEKS

FRANK RETRO. ADT.

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 94, 12, 14

Name of Correspondent: ~~Cliff Sloan~~ Howard Rich

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: POTUS support for Term Limits

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CU Mikva</u>	<u>ORIGINATOR</u>	<u>94, 12, 14</u>	<u>WS</u>	<u>C</u>	<u>94, 12, 14</u>
<u>CU AT #3 (Sloan)</u>	<u>A</u>	<u>94, 12, 14</u>	<u>WS</u>		<u>1 1</u>
		<u>1 1</u>			<u>1 1</u>
		<u>1 1</u>			<u>1 1</u>
		<u>1 1</u>			<u>1 1</u>

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOP).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents: _____ Media: _____ Individual Codes: _____

Prime Subject Code: _____ Secondary Subject Codes: _____

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C _____	_____	Time: _____	P- _____
DSP _____	_____	Time: _____	Media: _____

SIGNATURE CODES:

- CPn** - Presidential Correspondence
 - n - 0 - Unknown
 - n - 1 - William J. Clinton
 - n - 2 - Bill Clinton
 - n - 3 - Bill
- CLn** - First Lady's Correspondence
 - n - 1 - Hillary Rodham Clinton
 - n - 2 - Hillary Clinton
 - n - 3 - Hillary
 - n - 4 - Mrs. Hillary Clinton
- CBn** - Presidential & First Lady's Correspondence
 - n - 1 - Hillary & Bill Clinton
 - n - 2 - Hillary & Bill

MEDIA CODES:

- B** - Box/package
- C** - Copy
- D** - Official document
- F** - FAX
- G** - Message
- H** - Handcarried
- L** - Letter
- M** - Mailgram
- O** - Memo
- P** - Photo
- R** - Report
- S** - Sealed
- T** - Telegram
- V** - Telephone
- X** - Miscellaneous
- Y** - Study

U.S.

T E R M

LIMITS

090415cu

December 14, 1994

1511 K Street, NW
S u i t e 5 4 0
Washington, DC
2 0 0 0 5

202.393.6440
800.733.6440
FAX 202.393.6434

◆
National Co-chairs
U.S. Term Limits Council

Gov. Joan Finney
K a n s a s

Gov. William Weld
M a s s a c h u s e t t s

President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

Your apparent decision to support term limits, as reported in *USA Today*, is good news for more than 150 million term limit supporters throughout our nation. I look forward to working with you to insure that nobody, from either political party, is able to defeat the most powerful grass-roots movement of our time with phony, self-serving proposals.

With this in mind, I understand and appreciate your interest in challenging Republicans to make a term limits amendment retroactive. However, retroactivity is not what voters in 22 states have passed and is not nearly enough to stop the hypocrisy being displayed on this issue.

I urge you to establish a tougher standard by taking two steps that will protect the interests of the American people. First, demand that Congress take no action to overturn existing term-limit laws. You could even promise to veto any legislation that violates this standard. Second, aggressively support term limits like those approved by voters - 3 terms in the House and 2 in the Senate. Challenge the Congress to extend real term limits to the rest of the nation.

If you take these two steps, the term limits movement will stand up and applaud.

This is a much tougher standard than retroactivity because many politicians will be forced from office under state laws before an amendment can possibly be ratified - 94 House seats will be affected in 1998 alone. If you think the voters were angry this past election day, imagine the outrage if members of Congress vote to overturn these laws and extend their own tenure in office well beyond term limits already established by the voters!

Demanding adherence to existing state laws also resolves any question about the appropriate length of term limits. While Congressional Republicans are debating the difference between limits of 6 terms versus 3 terms in the House, voters throughout the country have already decided the issue - three terms is long enough. Of the 22 states with term limits, South Dakota is the only state where voters have approved limits as long as those supported by incoming House Speaker Newt Gingrich.

In addition to the actual state votes, a public opinion survey commissioned by our organization found that 82% of term limit supporters prefer limits of 3 terms. There is no significant support for limits of 6 terms outside of the halls of Congress. To be blunt, proposals for long limits are nothing more than a strategic retreat by politicians who oppose term limits. Recognizing that limits are inevitable, these office-holders want to make them ineffective.

It is also worth noting that every voter-approved term limit law applies to all existing office-holders - there are no grandfathering provisions. However, retroactivity has never been approved by voters. Washington state voters rejected a retroactive term limit bill and later approved a similar proposal without retroactive provisions.

To demonstrate the seriousness of your support for state-imposed term limits, I propose that you formally commit your Administration to supporting the right of states to impose Congressional term limits. This would mean withdrawing the Solicitor General's testimony opposing such state action in the case of *U.S. Term Limits v. Thornton*. As you know, this case involves a term limit law approved by the voters of Arkansas, a body of voters whose opinion you no doubt respect. I hope it is not out of line for me to point out that the Arkansas term limits amendment had more voter support in 1992 than a favorite-son Presidential candidate.

Mr. President, our movement is getting stronger every day. In 1994, just four years after Colorado voters launched the modern term limits movement, the term limits issue played a pivotal role in retiring the Speaker of the House and several other long-time incumbents. Among voters, term limits are overwhelmingly supported by more than 70% of Democrats, Republicans, and Independents.

In 1995, we will again break new ground as state legislatures are expected to pass real term limits for the first time. Until now, term limits have passed only in states where voters could put the issue on

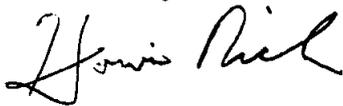
the ballot themselves (the Utah legislature passed a weak term limits statute that is likely to be overturned by voters). However, next year, legislators in New Hampshire and North Carolina are expected to approve federal limits of 3 terms in the House and 2 in the Senate. Texas, Tennessee and Louisiana may also jump on the bandwagon in the very near future.

In 1996, the term limits debate will take another step forward by playing a major role in the Presidential election process. Your interest in the debate will help assure that outcome. On the Republican side, Lamar Alexander has already made a commitment to actively support real term limits. I'm sure that the voters will force every contender to address this issue.

Our country was founded on the principle that government derives its "just authority from the consent of the governed." Before we can accomplish anything else as a nation, our government must regain that consent. There is no way that this can be accomplished without upholding the right of citizens to impose term limits on their elected officials. We need term limits to restore faith in our system of politics and government.

Join us in the arena.

Sincerely,



Howard S. Rich
President

cc: Joan Baggett
David E. Dreyer
Patrick J. Griffin
Will Marshall
Abner Mikva
Leon E. Panetta
George R. Stephanopoulos

With Term Limits Gone, What Now?

National campaign financing reform could avoid the need for a constitutional amendment

Twenty-three states, our own among them, have enacted laws to limit the terms of their representatives and senators in Congress. A Supreme Court cleanly split between its moderate and conservative wings has now held in a 5-4 decision that such laws are unconstitutional. The Constitution's framers, wrote Justice John Paul Stevens for the majority, intended that "neither Congress nor the states should possess the power to supplement the exclusive qualifications set forth in [the Constitution's] text." If congressional terms are to be limited, the Constitution itself must be amended, just as it was amended in 1951 to say that a person could be elected to the presidency only twice.

The court has made the right decision. It's right, not least, because to let each state set the terms for its congressional delegation would be to pave the way for a drastic upsetting of the legislative balance of power. Congress still treats seniority as

measured by length of service as more or less sacrosanct. Seniority, most notably in the assignment of committee chairmanships, equates with legislative power. To allow 50 disparate approaches to term limits, with some states requiring a fairly frequent turnover in their congressional delegations while others imposed no limits at all, would quickly lead to an enormous distortion in how legislative power is distributed.

The court majority recognized that congressional term limits, "like any other qualification for office," unquestionably restrict voters' rights. But term limits also "may provide for the infusion of fresh ideas and new perspectives," something our legislative process would clearly benefit from.

Public support for term limits is unmistakable and growing, and for valid reasons. However talented and dedicated many members of Congress may be, democracy in the long run

simply is not well served by vesting legislative power in a professional class of politicians.

It's often argued that elections themselves are the surest way to limit congressional terms. Certainly they can be, as many Democratic incumbents learned last November. But in the longer span of modern electoral history, last year's results stand out as an anomaly. Until last year, election after election demonstrated the advantages of incumbency, not least because incumbents, with power to wield and favors to grant, find it much easier to raise campaign money. And money, sadly, to a great degree remains determinative in many elections.

There's clearly a compelling need, finally, to get on with serious and un gimmicky reforms of the nation's campaign finance laws. If campaign financing laws cannot be corrected, then a constitutional amendment may be inevitable.

Again, Society Is Playing Catch-Up

UCI fertility clinic case illustrates the thorny issues that can develop on medical frontiers

The controversy over the UC Irvine Center for Reproductive Health provides yet another example of the complexity of legal, ethical and administrative issues that attend the wonders of advancement in reproductive technology.

Dr. Ricardo H. Asch, founder of an internationally acclaimed fertility clinic at the UCI Medical Center in Orange, has been widely respected as a pioneer in developing infertility treatments and as a physician who helped his patients realize their dreams of becoming parents. Over the weekend, he and his two partners at the clinic were placed on leave from the university faculty pending the outcome of investigations into medical and research practices at the center. Asch, denying wrongdoing and criticizing the university, resigned.

The dispute centers on allegations

that Asch took a woman's eggs without her permission in 1993 and then waited until last month to ask her to sign a consent form; a clinic patient alleges that one of the eggs was implanted in a second woman, who subsequently gave birth. Asch's lawyer says his client doesn't even know the identities of his accusers and denies improper use of the eggs, seeking medical consent after the fact and asking that medical records be changed.

An independent investigation is warranted, and it is good that Orange County Dist. Atty. Michael R. Capizzi decided to review the allegations with UCI police and California Medical Board investigators. But while efforts are made to get the facts, this case offers an example of why clear safeguards and oversight are needed to protect all involved in such scientific complexities. In Southern

California alone there have been several instances of litigation in recent years arising over disputes related to surrogate parenting.

In the Asch case the university alleges, among other things, that unapproved research was conducted and that patient files and embryology reports were withheld. Asch's lawyer says that administrative assistance was supposed to be provided by the university and that the doctor assumed that others were keeping track of embryos and records.

Wherever the truth lies, the new developments in human reproduction are fraught with pitfalls. All kinds of things can happen. People change their minds, memories are hazy and, of course, outright fraud is possible. Without clear agreements, guidelines and airtight supervision, there's bound to be trouble on this new scientific frontier.

Congress Must Probe Frightening Militias

Urgent hearings are needed to get at truth of these groups

Following the Oklahoma bombing, Americans justifiably are concerned about the growing presence of a movement that is filled with firearms and hatred for the government. But for reasons that escape common sense, some in Congress seem to be treating the problem of the militias with at best indifference and at worst tacit encouragement.

An act of domestic terrorism as hideous as the April attack clearly warrants Congress' keenest attention; immediate hearings—including examination of possible militia involvement—would be a logical starting point. Yet instead of dealing with the subject at hand, House Speaker Newt Gingrich (R-Ga.) proposes to revisit the controversial 1993 federal raid on the Branch Davidian compound in Texas. How does that address the problem of violence-prone militia members? By contrast, since the blast at the Oklahoma City federal building Rep. Charles E. Schumer (D-N.Y.) has been pushing the House to call much-needed hearings on paramilitary groups.

Organizations that track the militias point to a sharp increase in their activities across the nation. Confined at one time primarily to the West, the militias now have about 100,000 members spread over 30 states.

Many within these armed-to-the-teeth outfits claim they are merely exercising their rights to bear arms and to free speech and assembly. But when it comes to hateful rhetoric, words are one thing and action is another—and it's clear that some militia sympathizers have a problem distinguishing the two. That's what Congress has to probe.

Many paramilitary members cite the Second Amendment as a ground

for their activities, but the Bill of Rights speaks of a "well-regulated militia," not gunslingers who congregate around self-appointed generals. Two dozen states including California now have laws that ban paramilitary training of civilians that involves practicing with weapons for the purpose of warfare or sabotage. Over the weekend even Wayne R. LaPierre, executive vice president of the National Rifle Assn., apparently feeling the need to put some distance between the gun organization and militias, expressed support for congressional hearings.



No to hate: An anti-militia protest in Palm Springs earlier in May.

A number of key questions loom in the national consciousness. Is there any link between the Oklahoma bombing suspects and the militia movement? How extensive is the network of these groups? Have militias conspired to commit violence?

Answers are demanded, and soon.

The people of the United States have low tolerance for groups that claim to speak for the millions but in fact are pushing the agendas of a hate-filled few. The Oklahoma bombing killed 167 people. Could the federal government have done *anything* that would justify the slaughter of innocent civilians, including babies in a day care center? Does dissatisfaction with one's government make it OK to murderously prey on fellow Americans?

Congress of course should take care to do nothing that compromises rights. But it also has an obligation to expose outlaw extremists, even those who claim to be patriots. At the very least it must ensure that their "patriotism" doesn't spill over into violence, such as that which last month stunned an entire nation and the world.

Congressional Term Limits Struck Down

Supreme Court's 5-4 Ruling Unsets Laws in 23 States

By Joan Biskupic
Washington Post Staff Writer

A1

The Supreme Court ruled yesterday that states could not set term limits for members of Congress, saying American democracy was built on the principle that individual voters choose who governs and for how long.

In a 5 to 4 decision, the court found that the states do not have the constitutional authority to regulate the tenure of federal legislators. The ruling effectively overturns term limits laws in 23 states and makes amending the Constitution the only sure means of restricting incumbency.

"Allowing the several states to adopt term limits for congressional service would effect a fundamental change" in the Constitution, Justice John Paul Stevens wrote for the court. "Any such change must come not by legislation adopted either by Congress or by an individual state, but rather . . . through the amendment procedures."

He said a "patchwork" of state tenure qualifications would undermine the uniformity and national character of the Congress that the Founding Fathers sought. The Constitution lists only three qualifications for members of Congress, relating to age, citizenship and residency.

Although the merits of term limits have been debated since the nation's beginning, this was the first time the issue had come before the Supreme Court. The decision seems likely to refocus and reinvigorate one of the most contentious political debates of recent years.

House Republicans made term limits a prominent feature of their "Contract With America" in the 1994 elections. In March, however, the House defeated four different versions of a constitutional amendment for term limits as veteran Republican lawmakers joined Democrats in opposition.

A constitutional amendment requires a two-thirds vote in each chamber of Congress and approval by three-fourths, or 38, of the states.

None of the state laws mandating congressional term limits—all of which were passed since 1990—has ever been enforced, and yesterday's ruling essentially invalidates them all. The decision, however, will not

affect state laws limiting the tenure of state legislators.

The case decided yesterday involved an amendment to the Arkansas state constitution that would have prohibited a candidate from appearing on an election ballot after serving three terms in the House of Representatives and two terms in the U.S. Senate. Such veteran officeholders could only have been elected as write-in candidates.

Expressing the often angry tone of the term limits advocates, the preamble to the Arkansas rule asserts that "entrenched incumbency . . . has led to an electoral system that is less free, less competitive, and less representative than the system established by the Founding Fathers."

Arkansas officials and U.S. Term Limits, a lobbying group that intervened on the state's side, argued that a constitutional provision that gives states authority to regulate the time, place and manner of congressional elections provides broad leeway for ballot restrictions on in-

See COURT, A6, Col. 1
COURT, From A1

cumbents. They also asserted that states have broad authority to regulate elections under the 10th Amendment, which says that powers not delegated to the federal government in the Constitution "are reserved" for the states.

The case brought by Bobbie E. Hill, a member of the League of Women Voters, countered that the age, citizenship and residency qualifications specifically delineated in the Constitution for members of Congress are exclusive.

Trying to put the best face on yesterday's defeat, Arkansas Attorney General J. Winston Bryant compared the nationwide term limits movement and its grass-roots support to women's suffrage. "That took a number of years to come to fruition, and I believe the same will happen with term limits," he said.

John G. Kester, representing U.S. Term Limits, added, "We came within one vote of winning the whole war."

Yesterday's ruling surprised lawyers on both sides of the case with its close vote and the strikingly different views of state power that it reflected.

At the end of his 61-page majority opinion, Stevens acknowledged that "rotation" in office "may provide for the infusion of fresh ideas and new perspectives, and may decrease the likelihood that representatives will lose touch with their constituents." But Stevens said the merits of that debate could only be left to the people and the amendment process.

He was joined by three other liberal-leaning justices—David H. Souter, Ruth Bader Ginsburg and

Stephen G. Breyer—and by Justice Anthony M. Kennedy.

Kennedy signed Stevens's broadly written opinion and wrote a separate statement emphasizing how the Arkansas term limits statute challenged the "distinctive character" of a national government.

He wrote, "There can be no doubt, if we are to respect the republican origins of the Nation and preserve its federal character, that there exists a federal right of citizenship, a relationship between the people of the Nation and their National Government, with which the states may not interfere."

Dissenting were Chief Justice William H. Rehnquist and Justices Antonin Scalia, Sandra Day O'Connor and Clarence Thomas, to whom Rehnquist assigned the dissenting opinion.

"It is ironic that the court bases today's decision on the right of the people to 'choose whom they please to govern them,'" Thomas wrote, because it then invalidates "a provision that won nearly 60 percent of the votes cast in a direct election and that carried every congressional district in the state." The Arkansas provision was adopted in 1992 as an amendment to the state constitution.

U.S. Term Limits Inc. v. Thornton tested two key sections of Article I of the Constitution: one part setting congressional qualifications and referring only to age, citizenship and residency; and another part giving states power over "times, places and manner" of elections.

In rejecting the arguments of Arkansas and U.S. Term Limits, Stevens relied heavily on the court's 1969 ruling *Powell v. McCormack*, in which the justices ruled that the House of Representatives could not exclude elected Rep. Adam Clayton Powell (D-N.Y.) because of personal misconduct as long as he met the constitutionally outlined qualifications.

Stevens said the founders wanted the Constitution to have fixed qualifications that could not be altered by Congress. He said the Powell case also stands for the basic democratic proposition "that the people should choose whom they please to govern them."

Stevens wrote, "We believe that state-imposed qualifications, as much as Congressionally imposed qualifications, would undermine . . . [that] aspect of sovereignty."

The power to add candidate qualifications cannot be "reserved" to the states by the 10th Amendment, Stevens argued: "As we have frequently noted, the states unquestionably do retain a significant measure of sovereign authority. They do so, however, only to the extent that the Constitution has not divested them of their original powers and transferred those powers to the federal government."

In his 88-page dissent, Thomas said states implicitly have the authority to add qualifications for their members of Congress. "Nothing in the Constitution deprives the people of each state of the power to prescribe eligibility requirements. . . ." Thomas said. "The Constitution is simply silent on this question."

Supreme Court Lets Stand Ban On Blacks-Only Scholarships

MARYLAND, From A1

By Charles Babington
Washington Post Staff Writer

A1

The Supreme Court yesterday let stand a ruling that dismantled a University of Maryland scholarship program exclusively for black students, jeopardizing an incentive that many colleges have used to increase their minority enrollment.

More than half of the nation's colleges have similar affirmative action programs, which now may be in legal peril, according to officials familiar with the ruling. This is true especially in Virginia, Maryland, the two Carolinas and West Virginia, which are covered by the 4th Circuit Court of Appeals ruling the Supreme Court declined to review.

The University of Maryland program provided 40 annual blacks-only scholarships and was designed to redress years of discrimination, officials said, and to encourage a greater minority presence on a campus that is 12 percent black, despite a statewide population that is 24 percent black.

Calling yesterday's decision "tragic," university officials said they now will treat ethnic diversity as one criterion for financial aid but no longer will limit some scholarships to blacks only.

"We're deeply disappointed that the [Supreme] court decided not to review" the lower-court decision, "because we believe that decision is tragically wrong as a matter of law and a matter of policy," said Theodore M. Shaw, associate director of the NAACP Legal Defense and Education Fund. In the five states covered by the ruling, Shaw said, "these scholarships have been thrown into serious doubt."

Some education advocates said other universities may be able to retain their race-specific scholarships because they are not identical to the program at the University of Maryland at College Park, known as the Benjamin Banneker scholarships.

For example, they said, universities may be able to satisfy court of appeals objections with race-specific scholarships that apply only to in-state students and focus on the goal of racial diversity, rather than redressing past discrimination. On the other hand, the Supreme Court's decision to let stand the court of appeals ruling may be taken as a signal by other lower courts to apply tougher scrutiny to affirmative action programs.

Conservative groups said yesterday's decision strikes at the heart of

See MARYLAND, A7, Col. 1

efforts to defend scholarships that are set aside for members of one race.

"I don't think any colleges within the five states could continue to operate their programs in good faith," said Richard A. Samp, chief counsel of the conservative Washington Legal Foundation, which represented a Latino student who challenged the Maryland program in court.

Without comment, the Supreme Court declined to review an October decision by the Richmond-based Court of Appeals. That decision declared the Banneker scholarship program unconstitutional because it was limited to African Americans.

The court ruled that the university's history of discrimination and its resulting poor reputation among blacks could not legally justify a blacks-only scholarship program. The Banneker scholarships, the court ruled, were "not narrowly tailored."

The ruling is not binding outside the five states that make up the 4th Circuit. But Samp said federal courts in other parts of the nation might mimic the court's ruling if race-specific scholarships are challenged.

At the University of Virginia, officials yesterday said they were unsure of the future of two scholarship programs for blacks only. One provides aid yearly to about 10 blacks who are not Virginia residents and the other to about 50 black students from Virginia.

"The university is working to try to understand how our programs here may or may not fall under the terms of the 4th Circuit decision," said spokeswoman Louise Dudley. "We are definitely committed to programs that are effective in creating a more diverse student body."

Lawyers for the Clinton administration had urged the Supreme

Court to overturn the appeals court decision. The ruling, they argued, creates a "virtually insurmountable burden of proof" for colleges that want to reserve some scholarships for blacks students.

Yesterday's action was the latest round in a long-running dispute over affirmative action in higher education. The seminal 1978 "Bakke" decision found that race could be taken into account in college admissions.

At the University of Maryland, black students were banned by law until 1954, and were actively discouraged from attending for many years thereafter, according to university officials. Under federal orders to attract more blacks, the university in 1979 created the Banneker scholarships, given to about 40 students a year without regard to financial need.

The scholarships originally were open to all minority students but were limited to African Americans beginning in 1988. University officials defended the program on two grounds: It helped make amends for past discrimination against blacks, and it helped attract more black students to the College Park campus.

University of Maryland President William E. Kirwan said yesterday he was "deeply disappointed" by the Supreme Court's refusal to review that decision.

"The history of our segregated past continues to live in the minds of a significant segment of our population," Kirwan said. "These memories have made it very difficult to recruit African American students to an institution like ours without the use of incentive programs."

Critics, however, note that many Banneker recipients said they would have attended Georgetown, Princeton, Cornell or other prestigious universities had they not elected to enroll at College Park on a full scholarship. Such colleges compete heavily for well-prepared minority students.

Race-specific scholarships were designed "to benefit institutions, not the students," said Michael L. Williams, now a lawyer in Fort Worth. Five years ago, as assistant secretary for civil rights in the Bush administration, Williams caused a national furor by declaring race-specific scholarships to be discriminatory. He was forced to rescind the statement.

"I feel quite vindicated," Williams said in an interview yesterday.

Robert H. Atwell, president of the American Council on Education, said the 4th Circuit's ruling "does not address the full range of circumstances in which minority scholarships have been established, nor does it address the use of such scholarships to achieve diversity, a goal that was held to be legitimate on educational grounds by the Supreme Court in the Bakke case."

Staff writers Michael Abramowitz and Joan Biskupic contributed to this report.

THE WASHINGTON POST
TUESDAY, MAY 23, 1995

HIGH COURT BLOCKS TERM LIMITS FOR CONGRESS IN A 5-4 DECISION

FIGHT TO CONTINUE

Backers See 1996 Issue Despite Resistance From Politicians

By LINDA GREENHOUSE **A1**

WASHINGTON, May 22 — The Supreme Court ruled today that in the absence of a constitutional amendment, neither states nor Congress may limit the number of terms that members of Congress can serve. The vote was 5 to 4.

The sweeping decision, one of the most important the Court has ever issued on the structure of the Federal Government, had the effect of wiping off the books the term-limits provisions that 23 states have adopted for their Congressional delegations. Limits on terms for state officeholders are not affected.

The decision, which upheld a 1994 ruling by the Arkansas Supreme Court that the state's term-limits measure was unconstitutional, also dealt a potentially fatal blow to a popular movement that has won nominal support but little real enthusiasm from many politicians.

Four versions of a proposed term-limits amendment failed in the House of Representatives on March 29 after months of debate. With constitutional amendments requiring approval by two-thirds of each house of Congress and three-quarters of the state legislatures, three of the proposals that the House considered failed to get even a bare majority.

The Senate's Republican leaders plan to take up term limits next month, but the main supporters held out little hope of success and said they expected the issue to figure prominently in the 1996 Congressional elections.

With a majority opinion by Justice John Paul Stevens and a dissent by Justice Clarence Thomas, the decision revealed a Court riven by profound differences over the very nature and sources of legitimacy of the national Government.

The battleground over which the 157 pages of opinions raged was federalism, the same territory the Court plowed last month with an opposite 5-to-4 result when it broke with nearly 60 years of precedent and blocked an exercise by Congress of the power to regulate interstate commerce. The divisions on the Court were the same with the exception of Justice Anthony M. Kennedy, who voted with the majority last month in *United States v. Lopez* and joined the majority opinion today.

To Justice Stevens, who was joined as well by Justices David H. Souter, Ruth Bader Ginsburg and

conceived" when the Constitution replaced the Articles of Confederation.

The people themselves, and not the states, became the building blocks of representative democracy, Justice Stevens said. "The right to choose representatives belongs not to the states, but to the people," he said, adding that members of Congress in turn "owe their allegiance to the people, and not to the states."

While chosen by separate constituencies, members of Congress "are not merely delegates appointed by separate, sovereign states," Justice Stevens said, but rather "occupy offices that are integral and essential components of a single national Government." Allowing individual states to set term limits or other qualifications for membership in Congress "would effect a fundamental change in the constitutional framework," he concluded.

Justice Thomas, joined by Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor and Antonin Scalia, reached the opposite conclusion in a dissenting opinion that had as its premise a sharply different vision of the Federal Government.

Emphasizing that "the Federal Government's powers are limited and enumerated," Justice Thomas said that "the ultimate source of the Constitution's authority is the consent of the people of each individual

A split over what the framers of the Constitution meant.

state, not the consent of the undifferentiated people of the nation as a whole."

Consequently, he said, the states retained the right to define the qualifications for membership in Congress beyond the age and residency requirements specified in the Constitution.

Noting that the Constitution was "simply silent" on the question of the states' power to set eligibility requirements for membership in Congress, Justice Thomas said the power fell to the states by default.

The Federal Government and the states "face different default rules," Justice Thomas said. "Where the Constitution is silent about the exercise of a particular power — that is, where the Constitution does not speak either expressly or by necessary implication — the Federal Government lacks that power and the states enjoy it."

Justice Kennedy, whose swing vote was almost surely the focus of both sides' efforts, filed a brief concurring opinion — 8 pages, compared with 61 by Justice Stevens and 88 by Justice Thomas. His opinion appeared to be addressed directly to the dissenters, his recent and frequent allies.

Justice Kennedy said the dissent's view "runs counter to fundamental principles of federalism," which he called "our nation's own discovery." He said "it denies the dual character of the Federal Government" to assert that have a political identity only as citizens of their own states.

He continued: "There can be no

doubt, if we are to respect the republican origins of the nation and preserve its Federal character, that there exists a Federal right of citizenship, a relationship between the people of the nation and their national Government, with which the states may not interfere." The Arkansas term-limits measure at issue in the case "intrudes upon this Federal domain" and so "exceeds the boundaries of the Constitution," Justice Kennedy concluded.

The precise legal issue before the Court, the meaning of the Constitution's language describing the qualifications for membership in Congress, almost paled in contrast to the political philosophy that animated the Justices in this case, *U.S. Term Limits v. Thornton*, No. 93-1456.

Article I, Section 2 of the Constitution specifies that Representatives be residents of their states, at least 25 years old and American citizens for at least seven years. For Senators, the age is 30 and the minimum citizenship is nine years.

The question was whether those qualifications are exclusive, or whether the states — or by extension, Congress through passing a simple statute — can expand on them as Arkansas did in 1992 when its voters amended the State Constitution. Under Amendment 73, the names of anyone who had already served three or more terms in the House or two or more terms in the Senate could not be "placed on the ballot." If elected as write-in candidates, they could serve.

Arkansas and its ally in the case, a nationwide lobbying group called U.S. Term Limits, argued that the amendment was not a real limitation on terms but simply a ballot-access limitation of the sort the Court has upheld in reviewing state election codes. The majority rejected this argument, noting that the amendment's preamble included a denunciation of "entrenched incumbency." A state could not do indirectly what the Constitution prohibited it from doing directly, Justice Stevens said.

To decide the central issue of whether the qualifications set out in the Constitution are exclusive, the majority looked first to a landmark 1969 opinion, *Powell v. McCormack*. The Court held in that case that the House of Representatives had no authority to refuse to seat a duly elected member; Adam Clayton Powell Jr. of Harlem, who had been accused of financial improprieties. Mr. Powell met the constitutional qualifications for office, which Congress had no authority to alter, the Court said.

The dissenting Justices, while accepting the authority of that opinion, argued that it had no relevance to the question of whether states could set additional qualifications. Justice Thomas cited the 10th Amendment,

which reserves to the states "or to the people" all powers neither delegated by the Constitution to the Federal Government nor prohibited to the states.

But the majority, adopting an argument put forward by the Clinton Administration, said the power to add qualifications for membership in Congress could not be seen as a power "reserved" to the states by the 10th Amendment because it was never part of the states' original powers. The 10th Amendment "could only 'reserve' that which existed before," Justice Stevens said.

The Articles of Confederation had contained a term-limits provision, but the Constitution's framers rejected a proposal to require "rotation" in office. The possibility that states might set their own term limits was not discussed at the constitutional convention, but in the view of the majority, it was implicitly rejected. "Permitting individual states to formulate diverse qualifications for their representatives would result in a patchwork of state qualifications, undermining the uniformity and the national character that the framers envisioned and sought to insure," Justice Stevens said.

Continued on Page B9, Column 1

Continued From Page A1

Stephen G. Breyer, the profound question at the heart of the term-limits case was the continued vitality of the "revolutionary character of the government that the framers

Congress Members Off Hook On Re-election, but Not Issue

By KATHARINE Q. SEELYE **A1**

WASHINGTON, May 22 — Today was liberation day for the United States Congress.

By nullifying term limits imposed by the states, the Supreme Court in effect handed each member of Congress a "get out of jail free" card. If the court had upheld state-imposed term limits, 72 House members from seven states could not have run for re-election after next year. Now, for the time being anyway, they can all run more or less forever.

But they still must face the larger political truth that Americans overwhelmingly support term limits, and the Republicans among them face the corollary reality that their leaders have made term limits a major policy commitment. Many members of Congress are eventually going to have to reconcile their own desire to stay in Washington with the reality that despite last year's watershed election, voters loathe careerism in politics.

Bowing to that need, and recognizing that euphoria over the decision could appear unseemly, many in Congress today affirmed their support for term limits and praised the court for at least stating clearly that a constitutional amendment would be the only practical route to enacting term limits.

But the House just went through its part in that convoluted enterprise and managed to shoot down four different amendment proposals. A constitutional amendment needs 290 votes to pass; the most popular of the four proposals got only 227 votes. So the prospects seem pretty good that Congress will not pass an amendment for the foreseeable future.

"I don't think there's any way to get two-thirds of the people in this place who are willing to say goodbye to their jobs," said Senator Dan Coats, Republican of Indiana.

Most Republican Presidential candidates support term limits, even if Republican leaders in Congress have not been gung-ho advocates. With President Clinton and most Democrats opposing the idea, term limits are bound to become a contentious, if not defining, issue in the 1996 campaigns.

The general strategy of term-limit supporters is now to work to elect enough new members of Congress to allow the eventual passage of term limits, but that could take a very long time. The big unknown is how important the issue is to voters.

Representative Bill McCollum, the Florida Republican who sponsored the main term-limits proposal in March, said that today's court deci-

Continued From Page A1

sion might only change 3 or 4 votes, not anywhere near the additional 63 needed to pass a constitutional amendment. During a Capitol Hill news conference, he talked about "rolling up our sleeves" to "create a climate" in which candidates pledge to support term limits, but acknowledged that this would require more passion from the grass roots than arose during the House vote in March.

Once Mr. McCollum's news conference was over, Representative Van Hilleary, Republican of Tennessee, held his own news conference in the same room to say that the only lack of passion in March was for Mr. McCollum's proposal. Mr. McCollum had called for House members to be limited to 12 years; Mr. Hilleary, a freshman, proposed limiting members to six years. This difference drove a wedge among supporters of term limits, with opponents suggesting that the various alternatives were part of a deliberate strategy to split the pro-term-limit vote into enough factions so that none could pass.

On the March night that the House defeated term limits, Speaker Newt Gingrich promised that the first act of the next Congress would be to bring up term limits. That will not be until January 1997. Moreover, the Speaker did not indicate whether he would allow more than one term-limit proposal to be voted on.

As Mr. Hilleary said today, "We should try to have one version, but sometimes that's not possible around here."

In the Senate, the majority leader,

Supporters of term limits vow to press on but will need to elect more allies.

Bob Dole, had promised term-limit advocates that he would allow a vote by the August recess, and in a statement today he said he remained committed to a vote "in the months ahead." In any case, no one is under any illusion that the Senate will enact term limits, particularly since the House has already killed the issue for this year.

In that spirit, Senator Hank Brown, Republican of Colorado, said today that he would offer a measure

that might get around the Court's decision. The Court said lawmakers could not legislate new qualifications for Congress, so Mr. Brown is proposing to define more narrowly one of the current qualifications, the residency requirement. "My proposal says you are not an inhabitant of your state if you have not been physically present there for half the year for 12 years in a row," Mr. Brown said. "So if you haven't been there, you'd no longer qualify as an inhabitant."

He said this proposal was a way to get senators on the record about term limits, noting in an aside that he was thankful there were no secret votes or term limits would be scuttled completely.

He added that several Republican senators had been pleading with Mr. Dole not to bring any version of term limits to the floor.

Mr. Brown also predicted that perhaps only a dozen House seats would change hands in 1996 over term limits, but that might be enough to get candidates to recognize the potency of the issue and that term limits might pass before the end of the decade.

Not everyone thinks term limits have a future. Former Speaker Thomas S. Foley, a Democrat from Washington State, declared, "Term limits is dead."

But he added that proponents would not give up easily. "I think

they are going to push very hard to try to keep this ill-considered movement alive. And they'll spend a lot of money, they have great private resources, and they'll try to make it a political issue in the next campaign. I think it's against the interests of voters of both parties."

Mr. Foley, who lost his seat in part because he actively opposed term limits, said the movement picked up steam because of the misperception that the Democrats had a stranglehold on Congress. "You're going to hear a great deal of chest-beating and threats and very boastful talk from the term-limit community," Mr. Foley said. "It's deeply angered

by this decision, which they should have seen coming." Nonetheless, he predicted that an amendment would not pass the Congress.

Republicans called this "wishful thinking" on Mr. Foley's part. When told of Mr. Foley's remark that "term limits is dead," Mr. Hilleary said, "Mr. Foley's political career is dead" for just such opinions that are out of touch with the people.

An April poll by The New York Times and CBS News found that 66 percent of those surveyed support term limits. By nearly 2 to 1, they favored 6-year limits over 12-year limits.

When term limits failed in March, the Republicans blamed the Democrats, noting that 85 percent of Republicans supported Mr. McCollum's proposal. But The Times survey found that 77 percent of respondents blamed both Republicans and Democrats.

After all, what are voters to make of someone like Mr. McCollum, who advocates term limits but who will not set his own term limits now that the Court has knocked down term limits set by his home state, Florida? The current system rewards seniority, he said, and until everyone is limited, he would not limit himself. "To walk away now is not smart," he said.

Continued on Page B9, Column 1