

*File
Term Limits*

MEMORANDUM FOR LEON PANETTA
EVELYN LIEBERMAN

FROM: MICHAEL WALDMAN
BRUCE REED

SUBJECT: TERM LIMITS

Previous presidential statements

* During the 1992 campaign, the President said that he sympathized with the impulse for term limits, but opposed them because, among other reasons, they discriminated against smaller states . . . and said that we needed to do campaign finance reform and lobby reform instead.

* Since, he has rarely spoken directly on term limits. However, the Justice Department brief opposed the state term limit laws without a Constitutional amendment.

The President has two options in response to the Court's decision.

* Continued opposition to term limits.

* Suggesting that he would accept a constitutional amendment giving states the option to impose term limits -- so long as Congress acts immediately to enact reforms that require a simple vote of Congress -- e.g., lobby reform, campaign reform.

The House fear of Gingrich

Anna Huffington

James Carville a moment of political epiphany. It came on Monday night when he told Tim Russert on CNBC that he would be delighted to pay Newt Gingrich's presidential filing fee. "The country," he went on, "doesn't trust him. The country doesn't like him. And the country doesn't want to go in the direction he wants to take them."

In the meantime, the day before, on Meet the Press, Bill Safire had told Tim Russert that the Republican the White House fears most is Pete Wilson of California. Translation: Mr. Gingrich scares the living daylights out of the White House, while they feel confident they can cream Mr. Wilson.

James Carville and the White House are onto something that Republicans fail to grasp. And they had better grasp it before they're stranded with a Republican nominee whose vision does not match the hour.

As a nation we face one of those defining moments in which we are asked to choose between two distinct visions of America's future. As in 1856, we are a house divided, and 1996 is not going to be just another presidential election. It will decide which vision will prevail. Are we going to complete the revolution that will transfer power — and responsibility for the less fortunate — from Washington to individuals and communities, or are we going to hulk, hesitate, stumble and compromise, determined to re-invent government but continuing to act as if all solutions revolve around it?

"I do not expect the house to fall," Abraham Lincoln said, "but I do

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expect it will cease to be divided. It will become all one thing, or all the other." One cannot read that phrase without being struck by the similarities between Lincoln's time and our own, and the starkness of the choice before us. One world view will prevail; the other will fail. They cannot, for much longer, co-exist.

As Newt Gingrich remarked in his first speech while holding the Speaker's gavel: "How can any American read about an 11-year old buried with his teddy bear because he killed a 14-year old, and then another 14-year old killed him, and not have some sense of, 'My God, where has this country gone?' How can we not decide that this is a moral crisis equal to segregation, equal to slavery, and how can we not insist that every day we take steps to do something?"

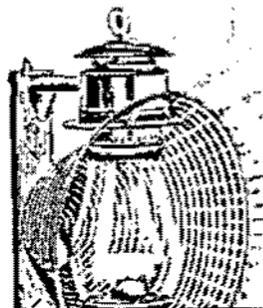
Mr. Gingrich may have been talking more about balanced budgets and the Medicare trust fund recently than about American civilization and the depth of the moral crisis confronting us, but the reason for Mr. Carville's bit of disinformation is that he knows perfectly well that Mr. Gingrich can paint vivid pictures both of the crisis and of what life will look like after the revolution. And Pete Wilson cannot.

Mr. Wilson is the Michael Dukakis of the Republican Party. It's all about competence. His presidential ambitions rest, apparently, on his conviction that he is the most competent man for the job. But voters did not hand both the House and the Senate over to the Republicans this past fall because they thought they were simply more competent than their Democratic opponents. The electoral shift toward Republicans is part of a fundamental change in the country's beliefs about the role of the federal government in our lives.

And that's why, in truth, the White House would love nothing better than to run against Mr. Wilson. If history has taught us anything, it is that in the battle between those with no vision and those who can fake it, those who can fake it win every time.

Republicans who cannot wait to send Bill Clinton back to Arkansas in 1996 should tremble at the prospect of a Clinton-Wilson debate and relish the prospect of a Clinton-Gingrich match-up. Mr. Clinton knows how to use the rhetoric of compassion and community: how to hug, to weep up, to bite his lower lip, to feel our pain. Let's face it: His performance as a candidate will be dazzling enough to obliterate — if only for a few weeks — memories of his performance as president.

Last weekend, the preacher pres-



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ident mounted the bully pulpit at a Communitarian conference in Washington and spoke of "what it would take to build not only good character, but good citizenship from people individually and in groups." Mr. Gingrich can more than match the rhetoric of community and responsibility, but unlike Mr. Clinton, he knows that federal

programs are not the way to build good citizens.

Ten days ago on C-SPAN, Bill Bennett became the first Republican leader to say what many Republicans have been thinking: "The debate is engaged already between Bill Clinton and Newt Gingrich, their differing visions as to the future of this country." In an election that will be about ideas and values, not just about policy, the standard-bearer of the party needs to be not a legislative mechanic or a competent administrator but a leader who embodies the party's vision and can complete the hardest part of the revolution.

Increasingly, in speech after speech, Mr. Gingrich has been talking about volunteers turning lives around and rebuilding communities, about private capital supplying the needs of schools and students left behind, about an awakening of American compassion that no one can legislate and only a tiny handful can inspire.

And if you hear James Carville or Eleanor Clift or Peter Jennings say that Newt Gingrich has to finish his job as speaker, take it as a sure sign that he does not. He has a more than worthy successor. Dick Armey has done a masterful job as majority leader and would make a superb speaker in his own right.

"Men must endure their going hence, even as their coming hither; ripeness is all," Shakespeare warned us. Thanks to James Carville, I'm now sure that the time is ripe for the governor to announce, as soon as his voice returns, that he will stay home and govern the Golden State, which needs the full attention he promised the 4,781,766 people who voted for him; and for the speaker to go to New Hampshire, see a moose or two and begin to speak to a party and a country ready to respond to a call to action, if the trumpet sound is clear. And by all means, Mr. Speaker, take up James Carville on his offer to pay your presidential filing fee.

Time for a fresh approach to term limits

The following is a Memorandum to Republican Leaders from the Project for the Republican Future whose chairman is William Kristol. It was released today.

This week's dramatic Supreme Court decision denying the people of the several states the right to limit their federal officials' terms presents both a major challenge and a grand opportunity for the Republican party. The challenge is for Republicans, who have said they support term limits, to prove they mean it. The opportunity is to move, visibly and decisively, to vindicate citizens' rights to limit terms if and as they choose. Since the Court has spoken, the effort should take this form: Congressional passage of a constitutional amendment permitting individual states to impose whatever term limits on federal offices their citizens prefer.

Republicans on the Hill have courageously taken on a huge array of interest groups on behalf of a budget that begins to restore power to the people. One might expect them to embrace with even greater enthusiasm the vastly more popular task of restoring to the people the power to limit terms. But the Republican response to the Court's decision has been surprisingly muted and fatalistic. The most impressive reaction so far has come from a Democrat, three-term Rep. Ray Thornton of Arkansas, who announced he would step down at the end of the current session: "The people of Arkansas have said term limits are desired, and I will honor that." Would that more Republicans were speaking in this spirit — committed to honoring the reasonable wishes of the American people, and to defending those wishes against a

After all, it seems clear in retrospect that the grassroots term limits movement that began in the late 1980's was a harbinger of today's broader effort to re-limit government — and of the Republican ascendancy dedicated to this task. Many citizens instinctively grasped that term limits were key to unlock-

ism. Republicans can meet that challenge by seeking to reverse the Court's action — and they can use such an effort to build even more support not only for re-limiting terms but for re-limiting government.

They can do this because the Court decision allows the Republi-

been drafted by Rep. Mark Sanford (R-SC). It has the advantage of principle: Republicans believe in federalism, after all. And it has other advantages as well. It sidesteps the bitter fights over whether six or twelve years are the right national limit (though public opinion would probably produce reasonably uniform — and short — congressional terms). And such an amendment has not yet been considered in the current session, which will permit a fresh and focused debate on the core issue of popular sovereignty. Why not bring the Sanford amendment, and its Senate counterpart, to a quick vote in both bodies, and thereby demonstrate Republican adherence to our stated goals?

The previous round of failed term limit amendments is not the evidence of futility it may seem. Citizens in 23 states have suddenly had their democratic decisions nullified by the Supreme Court. That has a way of galvanizing public sentiment. Let Republicans encourage and act on that sentiment. Let Democrats seek to thwart it. And let Democratic representatives from the 23 states whose citizens had voted to impose term limits now vote to deny the restoration of that choice to their own constituents. Not an easy vote.

Our first memo, 18 months ago, closed with a suggestion that the Clinton health care proposal could be opposed outright, and that such opposition could produce "the resurgence of a newly bold and principled Republican politics." We would suggest today that strong and persistent Republican advocacy of term limits can help turn this "resurgence" into a lasting Republican realignment, one that re-limits its government and restores classic American principles of citizen self-

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States to allow the States to limit the period of time United States Senators and Representatives may serve.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein): That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

ARTICLE

SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

SECTION 3. This article shall become operative unless it shall have been ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

ing the door — Congressional incumbency and seniority — guarding the warehouse of the welfare state.

This week's Supreme Court decision is a serious challenge to the effort to reach the institutional

can Party to take the political high ground that every American political party wishes to occupy. Republicans can move to vindicate the right of the people to choose how to govern themselves. Language for such a federalism term limits

Stifling popular will to the limit?

In a 5-4 decision, the Supreme Court sided with elites who are opposed to democracy and struck down federal term limits in 23 states.

The issue was framed such that it turned on the Constitution's Qualifications Clauses that specify the age, citizenship and residency requirements for standing for Congress. Whereas the qualifications for holding office are clear, they say nothing about the number of terms a person can serve. If the Constitution actually spoke on this issue, Justice Stevens would not have had to write 61 tortured pages pretending that it did.

Justice Clarence Thomas got the letter of the legal argument, such as it was, in his dissent. "The Constitution is simply silent on the question," Justice Thomas noted. "And where the Constitution is silent, it raises no bar to action by the States or the people."

What is disturbing about the Supreme Court decision is that arcane legal interpretation based on an expansive reading of the Qualifications Clauses has prevailed over massive popular action. Five justices have stifled the popular will. It is one thing for the Supreme Court to strike down a statute, but in 21 of the 23 states, the federal term limits resulted from ballot initiatives that won by large margins averaging 65 percent of the vote.

Ballot initiatives represent democracy at its best. They provide citizens the opportunity to decide issues independent of the influence on legislatures of organized special interests. Statutes often are not the work of a deliberative body of the people's representatives, but the



outcome of campaign contributions from powerful interest groups.

The term limits movement is the result of a citizens' movement to reclaim self-rule from vested interests and incumbency. Government has ceased to be accountable. Over the past 40 years or longer, congressional oversight has failed to hold bureaucrats and jurists to the meaning of statutes. Bureaucrats and political appointees have used regulatory interpretation to run

away with the law, and judges have used court decisions to stand statutes on their head.

A perfect example is the 1964 Civil Rights Act. The Act specifically defines discrimination as an intentional act and clearly prohibits racial quotas. Yet, in the hands of bureaucrats and judges, it has been turned into its opposite. What was intended to be an act of liberation has become an act of oppression. In California, people are resorting

again to a referendum, the Civil Rights Initiative, to take back the law.

Another example is the wetlands regulations, which lack statutory basis, but are used to deprive people of the use of their property and even to imprison them for using their property in time-honored ways.

A 5-4 decision is too narrow to strike down the popular will in 23 states. Even in last November's

earthshaking election that resulted in Republican control of Congress for the first time in four decades, 90 percent of the incumbents in the House were re-elected. Half of the losers had been in office only one term and were without the accumulated strength of incumbency. Of 26 Senate incumbents seeking re-election, only two were defeated, and one of them had been elected in a special election and served only a few years.

It is gratuitous for a mere five justices to elevate their opinions higher than the popular will demanding a return to accountable government. The arrogance of the Supreme Court is turning the United States into a kryptocracy—a society ruled by judges.

With the Supreme Court's decision, there are only two other avenues to term limits. One, a term limit amendment from Congress, has already failed in the new Republican House, one of the defeated elements in the "Contract With America." The other is a Constitutional Convention called by two-thirds of the states, followed by a complicated ratification process, a difficult undertaking.

The court in the narrowest of decisions has misused the Constitution to stifle the people's sovereignty and to frustrate their effort to take back their government. The ruling will spread cynicism and anti-government feelings and may ultimately lead to real revolutionary action.

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