

294 – Congressional Term Limits



by Paul Engel

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- We've had term limits for the Presidency for over 70 years, but none for Congress. Do you know why?
- What are the effects of term limits?
- Are there other ways to get the desired outcome of term limits, without the negative side effects?

U.S. Representative Tim Burchett has introduced a bill to limit the number of terms members of Congress can serve. I've talked before about term limits, but this seems to be a good opportunity to look at the details both of the legislation and the idea of term limits.

The question of term limits has been bandied about for many years. Term limits were not part of the Constitution until the 22nd Amendment, limiting the number of terms a President can serve to two, was ratified in 1951. Not that there weren't men who attempted to get elected for a third term, but we had the good sense to not let that happen.

Now Congressman Tim Burchett wants to amend the Constitution to limit the terms of members of Congress as well.

The legislation proposed by Congressman Burchett is pretty simple.

SECTION 1. No person who has served three terms as a Representative shall be eligible for election to the House of

Representatives. For purposes of this section, the election of a person to fill a vacancy in the House of Representatives shall be included as one term in determining the number of terms that such person has served as a Representative if the person fills the vacancy for more than one year.

SECTION 2. No person who has served two terms as a Senator shall be eligible for election or appointment to the Senate. For purposes of this section, the election or appointment of a person to fill a vacancy in the Senate shall be included as one term in determining the number of terms that such person has served as a Senator if the person fills the vacancy for more than three years.

SECTION 3. This article shall not apply to any person serving a term as a Member of Congress on the date of the ratification of this article.

Proposed House Joint Resolution

I love simple and straight-forward legislation. Section 1 of this proposed constitutional amendment would limit a representative to three terms. and section 2 limits Senators to serving two terms. The third section exempts any current members of Congress from this amendment. With such simple legislation, what could be the controversy? Why would people not support it?

Purpose of Term Limits

From 1789 until 1940, America followed the tradition established by President Washington of only electing a President for two terms. Then, in 1940, we elected F.D.R. for a third and even a fourth term. Since Roosevelt was a member of the Democratic Party, you shouldn't be surprised that those most supportive of term limits were members of the Republican Party. In 1944, Roosevelt's opponent, Thomas Dewey, made it an issue in his campaign:

“ four terms, or sixteen years is the most dangerous threat to our freedom ever proposed.”

FDR, Dewey, and the Election of 1944. – Jordan, David M (2011)

This shows us the primary purpose of term limits: Beating your opponent before the people go to the polls. Yes, those who support term limits decry the evils of career politicians and the corruption that comes with long term exposure to the halls of power, but I've rarely heard anyone talk about term limits who hasn't lost an election to a long term incumbent.

Meanwhile, I've yet to hear anyone promoting term limits discussing an unintended consequence like depriving the people of the candidate of their choice. People talk about not allowing a candidate to run for office, but never seem to consider that means the people who want to vote for that candidate are deprived of the opportunity to do so. Term limits involve imposing your will on someone else. Take for example, Mr. Burchett's proposed amendment. You may think that three terms in the House or two terms in the Senate are enough, but what about your neighbor? What if they think four terms in the House should be the limit? This amendment would deny them their choice of a representative because you have set a limit. And what about the situation where a really good candidate serves in office? What happens when someone who upholds their oath of office is term limited out and the only candidates left on the ballot are ignorant, reckless, and corrupt? Are you willing to replace a constitutional candidate with a corrupt one simply because they've served an arbitrary number of terms?

Effects of Term Limits

Most people who support term limits claim that it will “clean up” Congress by bringing in new blood. We have an excellent experiment in term limits with the Presidency of the United States. How has that worked at cleaning up the office? Yes,

there have been Presidents who have abused their office, and I was glad to see them go after the second term. However, those Presidents were often elected after a better candidate was term limited out.

Since I've already talked about how term limits restrict not only candidates but the people as well, there is another important effect of term limits we should discuss. The reason we have term limits is to introduce "churn" into elected offices. Often referred to as "fresh blood", the idea is simply to bring people into and out of the office on a regular basis. But what is the effect of this churn? To understand this, let's take a look at how we run elections today.

Although we had factions (an early form of political parties) early in the republic, they did not have the influence our current two major parties do. Originally, when you went to cast your vote, you were not handed a ballot with names on it. Instead, you were handed either a blank piece of paper, or one with the offices that needed to be voted on. You then put in the name of whomever you thought would best fulfill the duties of that office. When the ballots were counted, whoever got the most votes would be asked to serve. Not only was it considered a duty to serve, but to refuse was considered selfish and ungentlemanly.

Compare that with today, where the recognized political parties choose their champions, who then appear on the ballot. While you can still legally write in the name of whomever you want to vote for, the rules are set up to make it almost impossible for a write-in candidate to win in any but the most local elections. Unless you are a party's candidate and on the ballot, the odds of you getting elected round to zero. In fact, history has shown that unless you're a candidate of one of the two major parties, you'll be lucky to get more than a few percentage points of the votes. That means we've allowed the political parties to gain almost exclusive control of the election process. This can be seen not only by the fact that

almost every member of Congress is a member of one of the two major parties, but by the number of times you've been told you have to vote for a bad candidate to prevent the other party from taking control. In other words, we're using the "lesser of two evils" approach to choosing our representatives in government. What do you think will happen when a party's candidate is term limited out? The party will simply choose another champion and tell you to vote for them so the other party doesn't take control. Simply put, term limits places even more control into the hands of the party system. Just look at the last two Presidential election cycles. In both cases, Bernie Sanders was winning the primary elections for nomination as the Democratic Party candidate, only to be replaced by someone more palatable to the party leadership. Now imagine that is the process of choosing not only the President of the United States, but the 535 members of the House and Senate.

We can add to that one more gift of term limits: "Lame ducks". Does anyone else remember President Obama telling then Russian President Medvedev:

This is my last election. After my election I have more flexibility.

[President Obama to President Medvedev at the 2012 Nuclear Security Summit](#)

What do you think will happen when one third of Congress and half of the Senate don't have to consider the impact their actions may have on an upcoming election?

Conclusion

I agree there are many in Congress who have served long past their expiration date. However, I think term limits fixes the wrong problem. Ask yourself, why do the same people keep getting elected over and over again? The answer is We the People keep voting for them. But if so many people think

members of Congress are serving too long, why do we keep voting them into office? I believe the answer is two-fold.

First, we've allowed the party system to manipulate the election process to such an extent they control for whom you vote. They do this through the primary system, but how many of you realize that primaries, caucuses, and conventions are not constitutional parts of our election system? These are nothing more than the political parties getting taxpayers to cover the cost of limiting the people. How you would react if your governor announced that state taxpayer funds would be used to hold an election for the boards of the NRA and the NAACP? Most Americans I know would be outraged. Yet every couple of years our states and counties use taxpayer funds to hold elections for private corporations called the RNC and the DNC. These are not public entities, but private corporations. Not only are you expected to pay for their elections to choose their champions for the various offices up for election, but by doing so you are limiting the final choice people have in the actual elections. If you supported Bernie Sanders or Ted Cruz during the primary season, why can't you vote for them in the general election? Technically you can, but as I've already pointed out, the election laws in the states make it almost impossible for these candidate to get a fair chance at winning the election. Therefore, is it any surprise that those with the most power in the political parties are chosen to represent them in the elections for the most powerful offices? And since we've effectively allowed ourselves to be limited to the preferences of the two major parties, their candidates serve in those offices the longest.

Second, the American people have gotten lazy. Rather than vetting the candidate for office based on their fidelity to the oath of office, we choose whomever is the champion of our preferred team. How often have you voted for someone you don't really like in order to prevent the other party from winning? Or how often have you overlooked the bad actions of a

candidate because you didn't want the other party to win?

The problem that leads to people holding office for decades isn't the Constitution, it's We the People. We've allowed the political parties to control our state election laws and hold all but absolute sway over our electoral choice. Not only will term limits not fix America's problems, I believe there is plenty of evidence that it will make things worse. As George Washington warned us in his farewell address:

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of public liberty.

[George Washington's Farewell Address 1796](#)

For those of you who are still convinced that term limits are the answer, a quick look at Mr. Burchett's proposed amendment reveals that someone can still serve 18 or more years in Congress, six years in the House, and twelve in the Senate.

If we want more churn in Congress, then We the People need to start voting that way, not sit back and wait for a constitutional amendment to tell us to do so.

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