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HEARINGS

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

S.J. Res. 27 and S.J. Res. 28

JOINT RESOLUTIONS PROPOSING AN AMENDMENT TO THE
CONSTITUTION OF THE UNITED STATES WITH RESPECT TO
THE NUMBER OF TERMS OF OFFICE WHICH MEMBERS OF THE
SENATE AND THE HOUSE OF REPRESENTATIVES MAY SERVE

MARCH 14, AND 16, 1978

Printed for the use of the Committee on the Judiciary



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HEARING ON S.J. RES. 27 AND S.J. RES. 28—
CONGRESSIONAL TENURE

TUESDAY, MARCH 14, 1978

U.S. SENATE,
SUBCOMMITTEE ON THE CONSTITUTION
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 5110, Dirksen Senate Office Building, Senator Birch Bayh [chairman of the subcommittee] presiding.

Also present: Senator Dennis DeConcini.

Staff present: Nels Ackerson, chief counsel and executive director; Mary K. Jolly, staff director; Linda Rogers-Kingsbury, chief clerk; Leonard Ritt, staff representative of Senator DeConcini; and Romano Romani, legislative assistant to Senator DeConcini.

OPENING STATEMENT OF HON. BIRCH BAYH, A U.S. SENATOR
FROM THE STATE OF INDIANA AND CHAIRMAN, SUBCOMMITTEE
ON THE CONSTITUTION

Senator BAYH. The subcommittee will come to order. This morning the Subcommittee on the Constitution begins the first of 2 days of hearings to explore the ramifications of Senate Joint Resolutions 27 and 28, proposed constitutional amendments to limit the terms of service of Members of Congress. These resolutions were coauthored by my distinguished colleagues Senators DeConcini, Danforth, Wallop, Hayakawa, Goldwater, Schmitt, and Zorinsky. My distinguished colleague from Arizona and a member of the Judiciary Committee, Senator DeConcini, has requested to chair these hearings because of his deep interest in the topic. I wish to thank him and to commend his staff for their cooperation and for the work they have done in conjunction with the preparation for these hearings.

The Constitution as it was originally written and as it remains today, does not specify a maximum length of service for Members of Congress. In practice, this has allowed individuals to be reelected to the Senate and House of Representatives for a period of time limited only by the desires of their constituents. The Articles of Confederation, our first governing documents, provided for Members of Congress to be elected annually. The constitutional arrangement of 2-year terms for Representatives and 6-year terms for Senators was the result of a compromise reached between advocates of longer and shorter terms who met at the Federal Convention in 1778.

Since the time of the Continental Congress of 1777, the issue of the proper terms of office for Members of Congress has been debated both in Congress and out. From the very early resolutions to limit tenure to the present resolutions in this Congress, the controversy has centered on the relative value of seasoned experience versus fresh insights from a greater number of new legislators.

As with any proposed change in the Constitution, we must be careful and deliberate in examining these suggested amendments to determine if they would indeed improve the legislative process and the effectiveness of our Government. Our Constitution outlines a representative government. A representative government is one in which the people govern themselves indirectly by entrusting the administration of the State to the officials they choose for that purpose. Representative self-government, therefore, is best preserved by making Senators; and Representatives' tenure of office continuously dependent on the people's judgment through the ballot box. If voters are satisfied with the performance of their legislators they can return them to office. If not satisfied, they can choose a new representative. If we limit the number of terms Senators and Representatives may serve, then we limit the voters' choice. We should do that only if the reasons are compelling.

There are a number of areas which need to be explored and discussed during these hearings in order to determine whether there are compelling reasons for change of the Commission. Among the questions I have in mind are these:

One: Are there disparities in the abilities of Members of Congress to represent their constituents based upon length of service?

Two: Would the adoption of the proposed amendment eliminate any such disparities?

Three: Would the adoption of the proposed amendment place each State, each district, and each citizen on a more nearly equal footing in the legislative process?

Four: Would the adoption of the proposed amendment decrease the strength of the legislative branch and the contribution of Congress to the balance of power?

Five: Would our complex form of government function adequately if it relied on less experienced Federal legislators?

Six: Are other reforms of the seniority system, including recent congressional reforms that are now in effect, more desirable than a constitutional amendment?

As we begin these hearings, I must say that while I have serious reservations on the merits of these proposals, I firmly believe that this subject merits a thorough and scholarly investigation. I believe it is only restating the obvious to say that congressional powers and capabilities can be greatly altered by changing the length of terms served or the number of terms for which an individual may be eligible. These hearings will provide us with an opportunity to evaluate these proposals; I look forward to an informative and productive session.

I want once again to thank my colleague, Senator DeConcini, for his willingness to chair these hearings. I regret that we have other things happening in the full committee that will require some of us to do extra duty.

But, I appreciate the fact that the chairing of these hearings will be in good hands and our first witness is certainly an able spokesman for the subject.

I turn my gavel over to my friend, the Senator from Arizona, Senator DeConcini.

Senator DECONCINI [acting chairman]. Senator Bayh, I want to thank you for permitting hearings on this subject and permitting Senator Danforth and myself to participate. It is a credit to your leadership and the distinguished nature with which you have held your office so that you would permit us to hold hearings on behalf of your subcommittee under the Judiciary Committee. It is an important subject to some of us and it indicates a willingness of those who have been in Congress a longer time with more experience and expertise to make available the resources and procedures available in the Senate to consider such legislation as this and to have a fair and open hearing on the subject. It will go on for a long time. We appreciate your willingness to let this occur.

I have a statement to read and then we will hear from Senator Danforth.

OPENING STATEMENT OF HON. DENNIS DeCONCINI, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator DECONCINI. The question we shall be exploring at these hearings—whether or not any limitation should be imposed on congressional terms of service—is one which has recurred throughout American history. As early as 1777, the Continental Congress, whose members feared that legislators with restricted terms might become unresponsive to their constituents, decided that delegates to that body, who were chosen annually, would be eligible to serve only 3 years in any 6-year-period.

The issue of the appropriate term of office for legislators was also discussed at some length at the Constitutional Convention. Indeed, many of the arguments in that debate have a curiously contemporary ring to them.

General Pinckney of South Carolina, for example, argued at one point that shorter senatorial terms might be desirable because:

A longer time would fix [the senators] at the seat of government. They would acquire an interest there, perhaps transfer their property, and lose sight of the states they represent * * *. If the senators should be appointed for a long term, they would settle in the state where they exercised their functions, and would in a little time be rather the representative of that, than of the state appointing them.

Even James Madison argued for a form of term limitation—although somewhat more circuitously—by suggesting that senatorial service not start until a person was well on in years.

In the end, of course, our present electoral arrangements arose, less out of reasoned philosophical argument than from the pragmatic need of the Founding Fathers to arrive at some political accommodation. The 2-year term for Representatives was a “reasonable” compromise between Elbridge Gerry’s demand for annual elections and the Hamilton-Madison proposal for an election every 3 years.

Even though the Founding Fathers decided not to limit legislative terms of service, that did not put the issue to rest. During the very first Congress, the limitation issue reappeared as resolutions were introduced to restrict service in both the House and the Senate. And over the 190 years since the Constitutional Convention, the issue has arisen numerous times.

Concurrently, however, there have also been demands, particularly with regard to the House of Representatives, that terms be extended—most often to 4 years. In fact, until the 94th Congress, proposals to lengthen the terms of legislators were much more likely to be introduced than proposals to limit them.

Consider the following: From 1929 to 1963, 64 resolutions called for extending the length of congressional terms; the comparable number for the 1964-71 period was only 44. Over roughly, the same period, however, only 15 resolutions called for term restrictions. Yet in 1977 alone, 14 resolutions proposing this latter modification were introduced.

The tide has indeed turned. The present hearings, the first in either House to focus specifically on proposals advocating legislative term limitations, are a further indication of the rising public concern with the insulation of the legislative process engendered by unrestricted legislative service.

Specifically, today we shall be concerned with Senate Joint Resolutions 27 and 28. S.J. Res. 27 limits each person to two terms as a U.S. Senator plus an additional 2 years of unexpired term to which the individual may have been appointed. Thus, no person would be allowed to serve more than a total of 14 years.

The amendment also limits each person to seven terms of service as a Member of the House of Representatives, plus an additional year of an unexpired term to which the individual may have been appointed. No person would be allowed to serve more than a total of 15 years.

S.J. Res. 28 is basically the same. It differs from the former proposals in that House Members would be allowed to serve only six terms. Both amendments exclude present Members of Congress from coverage.

More important than these differences, however, is the fact that they both stem from the same philosophical premise: The desire to strengthen the representative nature of the national legislature, by substituting the citizen legislator from the career legislator.

Scholars agree that one of the most significant trends in the 20th century has been the tendency for Senators and Representatives to serve longer and longer terms. Nineteenth century politics was marked by a lively rotation of legislative seats. This was true for both the popularly elected House of Representatives and the State-appointed Senate.

The 20th century, however, has seen the average length of congressional terms increase rather dramatically. Other indicators of increased longevity point in the same direction. For example, in 1877, 46 percent of the Members of the House were first-termers; by 1977, the proportion had decreased to 15 percent.

Analysts disagree over what caused this change and, hopefully, some of the reasons for these modifications in our electoral structure

will emerge from these hearings. There is one thing, though, about which everyone agrees: The value of incumbency—the value of simply being in power, being visible, and having at one's command the resources of political office—has greatly contributed to what has come to be an increased rigidity in the political process. On the average, 90 percent of all congressional incumbents are returned to office. More importantly, research has shown that incumbency itself has become a much more important factor in the American voters' choice of Senators over the last three decades.

Some would argue that American voters still have a choice; they can, if they so desire, "throw the rascal out." My contention is that the powers of incumbency are so great that the voter is really offered only the illusion of choice. It has been estimated that the value of being the incumbent in a House race is worth roughly \$500,000. While it is more difficult to calculate such a figure for the Senate because each Senator's allowance varies according to the size of his State, a figure on the average of \$1 million would not seem to be far off. Furthermore, political interest groups funnel most of their campaign contributions to incumbents, thereby reinforcing their already substantial advantages.

The rise of the incumbency factor is but one reason for limiting Senate and House terms.

On a more philosophical level, I am deeply committed to the concept of the citizen-legislator. An enlarged pool of political candidates would certainly generate a wealth of new ideas. The growth of the professional legislator on the other hand is frightening, for it is yet another step away from the democratic ideal, leading toward rigid, unrepresentative institutions.

Those of us in the Congress, of course, make every effort to make it quite clear that I am not casting aspersions directly or indirectly on any current member of the Senate or the House of Representatives. My action is founded in a personal philosophy regarding the nature of Government and the proper role of legislators. But there is always the danger that long service in Washington will desensitize us to the changing needs and views of our constituents.

What has happened over the years, I feel, is that events have conspired to create a rather unhealthy political situation: A large Federal bureaucracy in conjunction with an increasingly insulated legislature populated by career politicians and allied with politically powerful interest groups have created what a number of political analysts call, "cozy triangles" or "subgovernments." These institutional substructures tend over time to develop a vested interest in particular policies or programs. As a consequence, they become immuned to new or innovative ideas which threaten their ongoing activities.

By limiting the terms of legislators through constitutional amendment, we are removing an important element in this relationship. Once challengers recognize that the incumbent's advantage is nullified, the channels which bring fresh ideas and new approaches to pressing social problems will be indeed opened. Candidates recruited from various walks of life will more likely than not be willing to run for office and thereby offer the electorate new alternatives to replace

the many stale and tired programs of the past. Under the present system, unfortunately, there are few incentives for change.

It is quite apparent to me that the American people see the dangers inherent in the rise of congressional careerism. Over the last two decades their levels of political cynicism and distrust of their political leaders has risen dramatically. No longer do they have the same degree of faith in the institutions which govern their lives as did previous generations. Indeed, 63 percent of the electorate—it was only 33 percent in 1964—give Congress a negative rating. Yet, with regard to limitations on Congressional terms, 60 percent of the public now favor a proposal in contrast to only 49 percent of 1964, and substantial majorities in both parties support the reform. In fact, it is most popular among younger, better educated voters.

This would also seem to be a propitious time for Congress to act. Both houses have undergone significant internal changes over the last decade. Particularly relevant is the increasing role played by younger members in the legislative process. While there is certainly no substitute for experience, the reforms of the last decade have sped up the processes by which new members have been able to acquire such experience.

Enlarged staffs have made more information readily available. Thus, while it is still necessary for younger members to "learn the ropes," that learning process takes place at a much faster pace; and, if one learns faster, one can leave faster and still make a substantial contribution to the public good.

What is sought here, then, is greater responsiveness and greater representativeness. By shortening terms I feel that legislative accountability will be enhanced and the forces which nurture it will be strengthened. This may be another way of saying that I have come to prefer democracy over efficiency.

For all practical purposes, I am advocating a kind of compulsory competitiveness in legislative elections—and political competition, like economic competition, is the most important method for assuring responsiveness.

Two thousand years ago, Plato rejected democracy because he believed the decisions of government should not be made by amateurs. He said, we needed philosopher-kings to guide us—divinely annointed experts who clearly saw truth. I reject that view because in the realm of politics there is no truth as such. The best we can do is to seek modes of compromise and accommodation so we can live together peacefully. The Legislature is the bar of the people—the forum in which we continue the great experiment in self-government. This is not an exercise that requires any special expertise; it requires commitment to the value of democracy.

In the act of creating an institutional structure which insures maximum participation, we will have reaffirmed our faith in the representative nature of our political institutions. We will have reaffirmed our faith that the laws which govern this great land should be made by men and women who truly reflect and represent the attitudes, values, and mores of each generation of Americans, and the many different perspectives they represent.

[Remarks from the Congressional Record and S.J. Res. 27 follows:]

[From the Congressional Record, vol. 123, No. 32, 95th Cong., 1st Sess., Feb. 24, 1977]

SENATE JOINT RESOLUTION 27—PROPOSED AMENDMENT TO CONSTITUTION

Mr. DECONCINI. Mr. President, I rise today to introduce a joint resolution proposing an amendment to the Constitution of the United States. I am joined in this endeavor by my friends and colleagues from Missouri and New Mexico, Mr. Danforth and Mr. Schmitt.

The amendment I propose limits the terms of service for Members of the U.S. Senate and House of Representatives.

The Constitution of the United States, which has served to bind this Nation together for two centuries, should not be tampered with for inconsequential reasons. It should not be the vehicle for transitory policy decisions. Our Constitution was a document forged to provide a large, sprawling, heterogenous society with a flexible framework within which diverse elements could resolve matters of national concern.

The Constitution should remain neutral in terms of policy. Its function and purpose is to define the parameters and rules within which our society struggles with the issues of the day. The amendment I propose does not violate this conception of our Constitution.

Limiting the terms of service of legislators will strengthen the representative nature of our two legislative bodies. In taking this action, I want to make it quite clear that I am not casting, directly or indirectly, aspersions on any Member of the Senate or the House of Representatives. My action is founded in personal philosophy regarding the nature of government and the proper role of legislators.

The Constitution as it was originally written did not specify a maximum length of service for Members of the House and Senate or the President. In practice, this has allowed individuals to occupy Senate and House seats for unlimited periods of time. I cannot argue that this has brought us bad government. Nor would I try to make any case which disparaged the superb leadership which both Houses of the Legislature have provided the Nation.

The argument I will make in support of my amendment is essentially philosophical. I believe the amendment will further perfect a system of government so well rooted in the nature and character of the American people that it has survived and prospered under the most adverse of circumstances; and a system of government that has preserved personal freedom not just for one generation or two but for eight generations.

The amendment would limit each person to two terms of service as a U.S. Senator plus an additional 2 years of an unexpired term to which the individual may have been appointed. No person would be allowed, thus, to serve more than a total of 14 years.

The amendment would limit each person to seven terms of service as a Member of the House of Representatives plus an additional year of an unexpired term to which the individual may have been appointed. No person would be allowed to serve more than a total of 15 years.

The numbers may be different, but the objectives of my amendment are the same as those that led to the adoption of the 22d amendment to the Constitution. As a people, we have decided that no person should serve as President for more than 10 years. In ratifying that amendment, we recognized that we were condemning no individual; rather, we were perfecting the fundamental law that governs us.

There are differences between the Office of President and the Office of Representative or Senator. It is understandable why we sought, first, to deal with the Office of President. For the person who holds that office commands an awesome power; power that any democracy must view skeptically and cautiously. Recent events, unfortunately, have demonstrated how that power can be abused. But now that we have disposed of that question, we need to turn our attention to the legislature.

It was the purpose of the framers of the Constitution to insure that all Americans were represented equally and fairly in the House of Representatives. In the Senate, representation was to be by State—but, again, equally and

fairly. The 17th amendment to the Constitution has not changed this; and a multitude of Supreme Court decisions have reaffirmed the rights of Americans to be represented equally.

Yet, in ways unforeseen by the Founding Fathers, the absence of any limitation on service in the Legislature has worked against equal and fair representation. The imperative to organize each Chamber in a reasonable and responsible fashion has over the decades evolved into what is now known as the seniority system. Under this rule, responsibilities within the committee structure of the two Houses are allocated on the basis of length of tenure in office.

In recent years, there have been abundant attacks on the seniority system, some sincere, some self-serving, and some merely the result of personal antipathies. My own view is that it is pernicious, but not necessarily for many of the reasons often cited. I believe that the men and women who have served as chairmen of our legislative committees have served well: they have often provided us with an independent source of national leadership. In most cases, they have exercised their power with moderation, and in the pursuit of national, not personal interest.

My own brief experience in this body confirms that observation, and I feel compelled to underscore again that the position I am taking is totally independent of my strong positive personal feelings toward my colleagues and the leadership in this body.

However, the seniority system does tend to diminish the equal representation of individuals and States that is so close to the heart of the meaning of democracy, and which the men at the Philadelphia Convention were so anxious to preserve. Under it, we do not stand as equals. Therefore, the States and the people we represent do not stand as equals.

Every Member of this body clearly understands that to be chairman, for example, of a standing committee confers immense benefits. Not only does it bring personal power and prestige; it enables that person to insure that the people he represents will receive benefits out of proportion to a purely rational allocation of Federal resources. It puts at the disposal of the chairman vast staff resources that practically insure his success in passing legislation of interest to him and his constituents.

Each of us, at one time or another, has witnessed or been involved in an election in which that was a central issue. Incumbents have appealed for votes on the grounds that their seniority insured that more of the Federal dollar would be spent in their State or district than would otherwise be true. Or, that seniority would allow the incumbent to pass legislation that a new Member could not conceivably be expected to shepherd through the complex legislative process. And in most instances, these are not vacuous or idle boasts; the nature of the seniority system makes them true. The question at issue is whether it should be thus; whether longevity of tenure in office should be the criterion for legislative success and constituent service; and whether this is the best a democracy can offer.

Our constituents complain—and we complain—about the Federal bureaucracy. It is entrenched. It is unresponsive. It is practically immune to change. We often ask of these professional civil servants whether they exist to serve us, or we them? At the same time that we launch these verbal assaults, we are anxious to perpetuate an entrenched, institutionalized legislature. What is the difference between a professional bureaucracy and a professionalized legislature?

Neither the delegates to the 1789 Constitutional Convention nor the American public today believes that we are best served by a professional legislature. But that is precisely the system we have created. We should not be career legislators; nor should we make a career of the legislature. The theory of democracy demands that as many members of society as possible should be given, the opportunity to serve. In some of the early Greek experiments with democracy, community service was demanded; in some cases, public offices were routinely rotated.

Because of the size and complexity of American society, we have moved away from direct democracy to representative democracy. Even though it is impossible for all citizens to participate in public service, we ought to insure that as many individuals as possible have the opportunity for such service. Limiting the number of years any single individual can serve would be an important step in that direction.

It is not sufficient to answer that if the electorate wanted change it would mandate a change by its vote. None of us is so politically naive that we do not understand the advantages of incumbency. The extent and nature of these advantages vary from region to region, but they exist everywhere. Political party officials are often well aware of the advantages of seniority; and they will work diligently to insure the continued success of the incumbent.

In those States or districts where competition is keenest, the reward for the earnest practice of democracy is self-defeating. We espouse the virtues of party and intraparty competition for public office; yet, the Senators and Representatives from regions where this occurs usually find themselves perpetually doomed to the bottom of seniority lists.

All power is subject to abuse, even the power of Senators and Congressmen. I am loathe to quote Lord Acton's dictum about the corrupting nature of power because I do not believe that any Member of this Chamber or of the House of Representatives has been corrupted by power. It is the possibility that exists; and it is that possibility that we must guard against.

Our constitutional structure with its delicate checks and balances rests on the prudent assumption that men are corruptible and that power may be misused. This is a healthy skepticism; one that keeps us constantly aware of how fragile freedom really is. We have placed the power of the Congress as a check against the power of the Executive, with the Federal courts occupying the third point on the triad. In diffusing power among different groups and persons, we have tried to insure that no individual will dominate the Government and destroy our liberty.

To be true to our commitment that shared power is responsible power, we need to address ourselves to the subtler dimensions of the problem. The 22d amendment to the Constitution remove an inherent contradiction in our system by limiting the terms a President can serve. That same contradiction persists in the unlimited terms for legislators. True, the potential for damage is less; the principle, however, is nonetheless valid.

Adoption of the amendment I propose should be viewed from two different perspectives. First, it would eliminate present disparities between Senators and Representatives based upon length of tenure. It would place each State, each district, each citizen on a more nearly equal footing. Simultaneously, it would add an additional safeguard against possible abuse of power.

The second perspective is the one I would emphasize. It is the positive side of the amendment. By limiting the length of service in the Legislature, we will be embracing the idea that new people should be brought constantly and consciously into the system. By opening the doors of the Legislature to people from every walk of life and every age group, we will be providing far more opportunities for everyone to participate. I am especially committed to the youth of today as the hope of tomorrow. That youth should be encouraged to serve the Nation; it is our responsibility to insure that as few barriers as possible stand in the way.

Two thousand years ago, Plato rejected democracy because he believed the decisions of government should not be made by amateurs. He said we needed philosopher kings to guide us—divinely appointed experts who clearly saw truth. I reject that view because in the realm of politics there is no truth as such. The best we can do is to seek modes of compromise and accommodation so we can live together fruitfully and in harmony. The Legislature is the bar of the people; the forum in which we continue the great experiment in self-government. This is not an exercise that requires any special expertise; it requires commitment to the values of democracy.

In the act of creating an institutional structure which insures maximum participation, we will have reaffirmed our faith in the representative nature of our political institutions. We will have reaffirmed our faith in the representative nature of our political institutions. We will have reaffirmed our faith that the laws which govern this great land should be made by men and women who truly reflect and represent the attitudes, values, and more of each generation of Americans, and the many different perspectives they represent.

I ask unanimous consent, Mr. President, to have the text of my amendment printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

95TH CONGRESS
1ST SESSION

S. J. RES. 27

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (legislative day, FEBRUARY 21), 1977

Mr. DECONCINI (for himself, Mr. DANFORTH, Mr. GOLDWATER, and Mr. SCHMITT) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States with respect to the number of terms of office which Members of the Senate and the House of Representatives may serve.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein),* That the following
4 article is proposed as an amendment to the Constitution of
5 the United States, which shall be valid to all intents and
6 purposes as part of the Constitution if ratified by the legis-
7 latures of three-fourths of the several States within seven
8 years after its submission to the States for ratification:

1 "ARTICLE—

2 "SECTION 1. No person shall be elected to the Senate
3 for more than two full terms. No person shall be elected to
4 the House of Representatives for more than seven full terms.

5 "SEC. 2. Notwithstanding the provisions of section 1 of
6 this article, any person may serve not more than fourteen
7 years as a Senator or not more than fifteen years as a
8 Representative.

9 "SEC. 3. For purposes of determining eligibility for
10 election under section 1 of this article, no election occurring
11 before the date this article is ratified shall be taken into
12 account. For purposes of determining years of service under
13 section 2 of this article, no service of any part of a term of
14 office by a Senator or a Representative elected to such term
15 before the date this article is ratified shall be taken into
16 account."

Senator DECONCINI. Our first witness this morning is Senator John Danforth, a Senator from the State of Missouri.

Senator, I want to thank you for your interest in this subject matter. Senator Hayakawa is also here, so we will ask him to join you at the table.

Senator Danforth, we will hear from you first and then from Senator Hayakawa.

I want to thank you both for taking your time to be here and for offering these outstanding resolutions.

**TESTIMONY OF HON. JOHN C. DANFORTH, A U.S. SENATOR FROM
THE STATE OF MISSOURI**

Senator DANFORTH. It was easy to persuade me to come because we've been looking forward to these hearings for more than a year now. I think it is to your credit that you have arranged for them to be held. I join you in thanking Senator Bayh for allowing these hearings to go forward.

I would also like to say, before I begin, that I really am pleased to see former Congressman Tom Curtis in attendance today. He will also be making a presentation to the subcommittee.

Tom Curtis represented for some nine terms the Congressional district in which I grew up. Well before I became involved in the business of running for political office, he served that Congressional district with great distinction and was, in fact, something of a model for me in my early days of public life and before.

He was one of the real giants of the House of Representatives. He is a man whose judgment I respect. I am delighted that he is here with us today.

Mr. Chairman, I have a prepared statement. It is not my intention to read it into the record but simply to submit it for the record if that is satisfactory with you, and then to make some extemporaneous comments.

Senator DECONCINI. That will be fine. We will insert it in the record.

Senator DANFORTH. The statement, in essence, restates the two principal arguments that you and I and Senator Hayakawa and others have been making since we first introduced these amendments.

The first point is that the purpose of the amendments is to try to move more in the direction of attracting citizen legislators on Congress, people who view themselves as private citizens on leave to their Government—as opposed to professional politicians who leave the districts or the States in which they have lived their lives and set up shop in Washington to stay as long as they possibly can.

There is something about the notion that we will not be here forever that I think has an especially healthy effect on our perception of ourselves as we go about the business of legislating. Right now, there is a notion that we have been somehow anointed, that we have assumed a special status, that Washington is a place for those who are set apart for the purpose of governing. I think that notion is contrary to the basic concepts of our country.

It appears to me that these amendments reject that idea, embracing instead the nation that all people who come to Washington to serve in Congress are, first and foremost, residents of the districts and the States that sent them here in the first place, that they will be returning sooner or later to those districts or States, and that they are citizens, like other citizens, except that they have been sent here to do a job and sooner or later they will be returning to the world from which they came.

The second point that we have been making repeatedly is this: When you are constantly looking toward the next election, and when that is foremost in your mind, there is a very human tendency to do almost anything to keep yourself in office, to get yourself reelected. Let's face it, being in the U.S. Senate is a very satisfying job. It is a job which is very interesting. You have a good staff to help you do the job. You have various emoluments of office, some of which take the form of salaries. Others take the form of gymnasiums and elevators that are marked "Senators Only," and the like. It is only human nature to want to stay in that kind of setting. Where do you go after being a U.S. Senator?

So, constantly, supplicants come to Washington to ask us to do things for them. The tendency is to say "yes" because a politician's bread and butter is to say "yes." Maybe we've been saying "yes" too often and "no" too seldom. Maybe we have been too anxious to say anything, and do anything, and promise anything, in order to win the next election. Maybe this is the reason that the Federal budget is now approaching half a trillion dollars. Maybe this is the reason the Government continues to expand like Topsy in an effort to satisfy all of the demands made on us.

That brings me to another point I would like to make which is maybe just a different way of approaching the first two, but I would like to say it. As I understand the basic argument that is made against these amendments, it is this. The amendments, it is said, are undemocratic. It is said that they deprive the people of the opportunity to vote for all of the persons available to serve in the Senate or House of Representatives.

Of course, we deprive the people of all kinds of opportunities as a matter of constitutional law, in any event. You have to be 25 years of age to serve in the House of Representatives. You have to be 30 years old to serve in the Senate and 35 years old to be President. We have already decided that a President cannot serve more than two terms. In many of our States we have decided that certain officials, usually the Governor, and in our State the treasurer as well, cannot serve more than two terms. So we have already put ourselves in the business at, the Federal level and the State level, of ruling out the possibility that some individuals serve in certain offices.

But I think that the point that should be made is this. Implicit in the argument that it is somehow wrong to make longtime Congressmen ineligible for congressional office is the assumption that the art of legislating is a fine art, that the art of legislating is something that requires a very precise skill which is developed over a long period of time. Therefore, the argument goes, the longer a person serves in the

Senate or the House of Representatives, the better job he is able to do—and he or she therefore—by right—belongs in Congress.

I just want to say that I reject that argument categorically. I do not think that the art of legislating is a fine art.

I can remember years ago hearing about some ancient religion in which ritual slaughters of animals were performed. It was thought in that religion that the animal had to have precisely the proper physical characteristics and precisely the proper coloration and that the slaughter had to be done step by step in exact detail according to the rules, or the slaughter would not only be beneficial, it would cause injury.

Therefore, the people who were vested with the responsibility of engaging in this ritual slaughter had to be people with very precise detailed knowledge and ability to execute the animals according to the rules of that religion.

Somehow I think we have got ourselves into the notion of thinking that the same kind of approach applies to the art of government. There is a notion that government is something that is done very precisely, and that government, like ritual slaughter, has a kind of magical property about it. If it is done in proper fashion, the magic is good. If it is done in an improper fashion, the magic is bad.

We have got ourselves into believing that government is good and that government is bad and that it depends upon whether the magicians who operate in Washington are doing the right thing and whether they have the right kind of will to serve the people.

I think that whole approach is absolutely wrong. If there is one thing that I have learned in the year that I have been in the U.S. Senate, it is that government is not a fine art, and that it is not practiced like the old ritual slaughter. Government involves judgment. It involves "feeling our way along."

I think that oftentimes we lose sight of this. I can remember when the energy tax legislation was before the Senate Finance Committee. All of these various proposals for tax incentives were presented to us in great detail, with detailed estimates as to how many barrels of oil a day such-and-such a proposal would save—and so on. Yet, if you pinned down the people who were testifying and asked them, "How do you know?"—the answer was that they did not know and that they were guessing. The whole debate resolved itself into a single matter of judgment.

The same is true with tax legislation. The same is true in dealing with the economy. What is really involved is a matter of judgment.

It seems to me that people who come to Congress do not come with the notion of picking up some detailed skill but come here, instead, with the purpose of exercising their best judgment, with due regard for the opinions of the people who sent them here.

Therefore, the notion that there is a small class of people who—because they've been here for a few years—are somehow more adept at the act of legislating than the rest of the public, seems to me just fundamentally wrong.

One thing that these amendments would do, I think, would be to say to the people of this country that legislation is not a fine art. Writing the Nation's laws is not a question of accomplishing magical

objectives if only you know how to go about it—if only you know how to rub the bottles so that the genie will come out. Rather, legislation, as the British would say, amounts to “muddling through,” feeling our way, using our best judgment. That job can be done by thousands and thousands of people who are out in Missouri right now—not just a couple of people who happen to serve in the Senate today.

I thank you very much.

Senator DECONCINI. Thank you very much, Senator Danforth, for that statement.

[The prepared statement of Senator Danforth follows:]

PREPARED STATEMENT OF SENATOR JOHN C. DANFORTH

Mr. Chairman: On February 24, 1977, I introduced Senate Joint Resolution 28, proposing a constitutional amendment which—in all but the rarest of circumstances—would prevent a person from serving in the Senate or the House of Representatives for more than 12 years—two full terms in the Senate, six full terms in the House.

Mr. Chairman, as you know, I was privileged to count you among the original co-sponsors of that proposal, together with Senator Hayakawa, Senator Schmitt, Senator Wallop, and Senator Goldwater. A few weeks later, Senator Garn joined as a cosponsor. I was pleased to support a similar resolution which you introduced that same day—Senate Joint Resolution 27. As you are well aware, similar proposals have been introduced in the House of Representatives with broad cosponsorship.

The mechanics of my proposal may be stated simply. No person elected to the Senate two times would be eligible for election or appointment to the Senate. No person elected to the House of Representatives six times would be eligible for election to the House of Representatives. For purposes of determining eligibility for election, only elections occurring by reason of the expiration of the term of office of a Member would be taken into account.

In order to prevent the ratification process from becoming embroiled in disputes centering on the personalities of incumbent Congressmen, the proposed amendment would include a limited grandfathering provision—providing that no election which took place prior to ratification would be taken into account in determining a person's eligibility to stand for election. Thus, no matter how many times an incumbent Senator had been elected to the Senate prior to ratification of the proposed amendment, he or she would be eligible to stand for election to the Senate two more times. No matter how many times a Member of the House of Representatives had been elected to the House prior to ratification of the proposed amendment, he or she would be eligible to stand for election six more times.

But the mechanics of this proposal to limit Congressional terms are in no sense as important as the idea itself.

I am firmly convinced that the frustration many Americans feel toward their government stems from the feeling that they have lost control over the political forces that control their lives. During my campaign for the Senate, many Missourians told me they have come to believe that the Federal Government has lost touch with the American people. Time and time again I am told that the American government simply does not understand the American people. And yet ours is supposed to be a government of the people—by the people—and for the people.

What happened?

When our government was founded, I believe it was contemplated that Congress would be a legislative body made up of citizen politicians. And, in the early days of the Republic, Congress was a citizens legislature. That is no longer true. Congress has become a legislative body made up of professional legislators, ensconced in Washington, remote from the American people.

Public support for a limit on Congressional terms is strong and widespread. A recent Gallup poll showed that 60% of the American people would support a limitation on Congressional tenure. The unfortunate fact is that people across the country have lost faith in their government.

I have said repeatedly that limiting Congressional terms will force turnover, bring in new people, generate fresh ideas and ensure close communication between the people and their elected representatives. I have also repeatedly observed that, by limiting terms, we will lessen the tendency for Members of Congress to say anything, do anything, and spend anything in the effort to get themselves reelected.

In my opinion, these considerations alone justify a serious look at the tenure limitation proposals now before this Committee. But none of these considerations speaks to what I consider to be the true purpose of my proposal. By limiting terms, I hope to change the course of thinking of the people who come to Washington to serve in Congress. The purpose of my proposal is to make certain that each and every Congressman understands that his tenure here is limited, that—however adept a politician he may be, and however skillful he may be in pleasing special interest groups—he will someday have to answer to as well as for the laws he writes. By limiting terms we will remind each Member of Congress that he is not, by virtue of his election, a member of some ruling class, but a citizen on leave to his government—a public servant, first, last, and foremost.

Mr. Chairman, you and the members of this Committee are to be commended for providing a public forum in which to debate the merits of limiting congressional tenure. When you and I introduced Senate Joint Resolutions 27 and 28 last year, I was—to be frank—quite skeptical that either proposal would ever see the light of day. I therefore thank you for providing these hearings, and I thank you for giving me this opportunity to state my reasons for supporting a limitation on congressional tenure. I hope and trust that these hearings will provide a starting point for a discussion that will continue for some time to come.

[Remarks from the Congressional Record and S.J. Res. 28 follows:]

[From the Congressional Record, vol. 123, No. 32, 95th Cong., 1st Sess., Feb. 24, 1977]

SENATE JOINT RESOLUTION 28—PROPOSED AMENDMENT TO CONSTITUTION

Mr. DANFORTH. Mr. President, on behalf of myself and Senators DeConcini, Hayakawa, Schmitt, and Wallop, I am today introducing a joint resolution to limit the number of terms an individual can serve in either the Senate or the House of Representatives. The amendment would provide that after the date of ratification an individual could be elected to the Senate for a maximum of two 6-year terms and to the House of Representatives for a maximum of six 2-year terms.

It is a widely held belief throughout the Nation that Washington is far removed both geographically and psychologically from the rest of the country. Many Missourians have expressed to me the feeling that somehow those who participate in the Federal Government have lost touch with them and with the reality of the world in which they live. They believe that the Federal Government is large and intrusive, but that it does not really represent the aspirations and the concerns that citizens experience in their own communities and in their own lives.

There is, of course, no magical way to transform the Federal Government into something more closely related to the people it is supposed to serve. But there is a structural change which would tend to bridge the gulf now separating the people from the Government. That structural change is to provide, as a matter of constitutional limitation, that no Member of Congress is to serve in perpetuity, that every Member will eventually return to the world from which he came.

Members of Congress, after all, are elected to represent their constituencies. They are not anointed to assume a different and perpetual status of humanity. They should see themselves as citizens temporarily on leave to the Government—not as permanent legislators residing in the city of Washington, which is so distant from the districts and States from which they came. So, the first benefit of this amendment would be psychological. It would be the certain knowledge that each of us is here for a limited time—that home is the place we came from and the place to which we will surely return.

An additional benefit of such an amendment would be to minimize the human tendency to say "yes" to every interest group that comes along so that our chances of surviving election after election are enhanced. The point of representative government is to reflect the interests of totality of one's constituency. It is not simply to apply grease to the wheels that squeak the loudest in the hope that support will be won for yet another election. This constitutional amendment would keep in the front of our minds that knowledge that sooner or later we, too, will be private citizens, regardless of the political skill we may or may not possess.

Much is said about governmental reform, yet so much proposed reform is only superficial. This resolution provides an opportunity to move in the direction of real reform. Hopefully, at the very least, this resolution will initiate some meaningful public debate on the role of Congress and the relationship between Congress and the American people.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the Record. * * *

95TH CONGRESS
1ST SESSION

S. J. RES. 28

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (legislative day, FEBRUARY 21), 1977

Mr. DANFORTH (for himself, Mr. DECONCINI, Mr. GOLDWATER, Mr. HAYAKAWA, Mr. SCHMITT, and Mr. WALLOP) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

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 of the House of Representatives.

1 *Resolved by the Senate and House of Representatives of*
2 *the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the following*
4 *article is proposed as an amendment to the Constitution of*
5 *the United States, which shall be valid to all intents and*
6 *purposes as part of the Constitution if ratified by the legis-*
7 *latures of three-fourths of the several States within seven*
8 *years after its submission to the States for ratification:*

1 "ARTICLE —

2 "SECTION 1. No person who has been elected to the
3 Senate two times shall be eligible for election or appointment
4 to the Senate. No person who has been elected to the House
5 of Representatives six times shall be eligible for election to
6 the House of Representatives.

7 "SEC. 2. For purposes of determining eligibility for elec-
8 tion under section 1 of this article, only elections occurring
9 by reason of the expiration of the term of office of a Member
10 shall be taken into account, and no election occurring before
11 the date this article is ratified shall be taken into account."

[Additional comments given during the introduction of S.J. Res. 28 follows:]

[From the Congressional Record, Feb. 24, 1977]

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. GOLDWATER. I want to ask if the Senator would not mind having an older man on that constitutional amendment. If he does not, I ask unanimous consent to add my name to it.

Mr. DANFORTH. Mr. President, I would be delighted to add the distinguished Senator from Arizona as a cosponsor to this amendment.

The ACTING PRESIDENT. pro tempore. Without objection, it is so ordered.

Mr. DANFORTH. I yield the remainder of my time to the Senator From New Mexico (Mr. Schmitt).

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized for a period not to exceed 15 minutes.

Mr. SCHMITT. Mr. President, I congratulate Senator DeConcini and Senator Danforth for joining with us in this initiative.

The first conversations I had on the subject were with Senator Danforth in Oklahoma during some campaign activities in the last election. We found there was great interest not only in our States but elsewhere in the country in some kind of limitation of the length of service for Representatives and Senators.

There are many motivations behind this interest, I think. I would just only speak to my more philosophical perspective on the need for this limitation.

Since 200 years ago when the unifying political fabric of this country was established, there have been many changes, one of the most profound of which is the rate on change itself. The rate of change is obviously accelerating very rapidly, and with it have come many problems.

We have lost, for example, valuable time within which to respond to crises as they occur and, I think, it is in the minds of many that some rejuvenation of the knowledge and imagination in the Halls of Government is required in order to more rapidly respond to these crises.

We need clearly a more dynamic response, one which can offer flexibility as a particular problem arises and is treated in the context of other problems.

We also need a much closer relationship with the citizens of this country and, I think, what is bothering our constituents throughout the Nation is that they are starting to feel isolated from their elected representatives in many respects.

Mr. President, I believe we are moving more and more toward a time when we must have citizen politicians. Just as throughout our history we have relied on the citizen soldier as the mainstay of our defense, so we must now rely on the citizen politician as the mainstay of our legislative process.

This constitutional amendment or amendments like the one that have been proposed will, I think, encourage the reappearance and involvement of the citizen politician. Let me illustrate what I mean, Mr. President.

If a person has established himself in a career of any kind, perhaps in local government, in business, in the professions, in labor, in education and in home-making but, nevertheless, in a career and has enjoyed success in that career, then he or she would look with favor on entering the political arena for a limited period of time, essentially being on loan from the private sector to the government, and then at some subsequent time, such as after two terms in the Senate or six terms in the House, this person would return and live with what he has done among the people he has represented.

Such a procedure, I think, would broaden the balance of knowledge, expertise, experience, and background in the U.S. Congress. As a matter of fact, it would put us in much closer communion with our Founding Fathers who themselves had a very broad balance of knowledge about the human condition and the state of human knowledge of their time.

If one looks at the biographies of those gentlemen, one will see that in many individuals, and certainly in the aggregate, there was clearly represented most of the knowledge and learning of mankind up to that point in history.

Today we are faced with even more complex problems than experienced by our forefathers, problems of energy, of education, of defense, of our whole national security and our foreign policy, of satisfying our compassion to care

for those people who cannot care for themselves, of dealing with the change from a rural to an urban society, and the list is endless.

With the increasing complexity of these problems, and the increasing inter-relationship of these problems, I believe we must once again look for broad balance in our elected representatives.

These amendments, which would limit the terms of office for Representatives and Senators, go a long way toward increasing the balance within Congress, of increasing its responsiveness to problems, of putting Congress back into a position of making policy and overseeing the implementation of that policy rather than what has been the trend of actually attempting to implement through piece-meal legislation.

To do this we need more generalists, individually and in the aggregate, within Congress, not specialists we have tended to become.

My experience in other endeavors and in other careers—and let me add, I consider myself a citizen politician—has shown me that 10 or 12 years of intense activity are about the limit that most individuals find they can maintain before they start to feel a little stale and become less effective than they were at the height of their powers. A change in career rejuvenates and again produces a person capable of contributing to the maximum of his capability.

I would like to urge all of my colleagues, senior or freshmen, to consider strongly supporting the concept of the constitutional amendments that have been offered. I hope there will be extensive hearings on these amendments. I hope the debate will occur nationally as well as in these Chambers so that we can come to grips with the style and kind of government we hope to have in our next century of national existence.

Mr. President, I am pleased to cosponsor this proposal for a constitutional amendment limiting the number of terms of service for Members of Congress.

In my opinion, U.S. Senators should serve no more than two 6-year terms, nor Representatives more than six 2-year terms in the Congress. Let me explain why I believe this by discussing briefly the legislative history relative to congressional terms of service.

Article I, section 2 of the Constitution provides:

“The House of Representatives shall be composed of Members chosen every second Year by the People of the several states * * *”

Article I, section 3 provides:

“The Senate of the United States shall be composed of two Senators from each State, * * * for six Years, * * *”

There is no language in the Constitution limiting the number of terms each Representative or Senator may serve.

The drafters of the Constitution do not appear to have considered the adoption of any such limitation. In fact, as far as the Senate is concerned, there were suggestions that Senators be appointed to the office for life, or at least, for good behavior, with the Upper Chamber modeled after Britain's House of Lords.

Edmund Randolph, for instance, believed that Senators, or “members of the second branch of the national legislature” should hold office, if not for life, at least “for a term sufficient to insure their independency.”

After a consensus was reached that a life term was not desirable, there was considerable debate as to the proper length of a Senate term. According to Elliot's “Debate on the Adoption of the Federal Constitution,” these ranged from 4 years, with one-fourth of the membership elected annually, to 9 years, with one-third elected every 3 years.

Many of the arguments advanced by those favoring a shorter term are also applicable to limiting service to two terms. For example, General Pinckney, who proposed 4-year terms, stated:

“A longer term would fix them at the seat of government. They would acquire an interest there, perhaps transfer their property, and lose sight of the states they represent. Under these circumstances, the distant states would labor under great disadvantages * * * if the Senators should be appointed for a long term, they would settle in the state where they exercised their functions, and would in a little time be rather the representatives of that than of the state appointing them.”

James Madison, who did not believe that a senatorial term of 9 years could pose any real danger to the Republic, nevertheless suggested a form of service limitation, by recommending that “the long term allowed to the second branch

should not commence till such a period of life as would render a perpetual disqualification to be re-elected." Although the age of 30 seems relatively young today, in 1787 it indicated an individual of somewhat advanced years who would bring a level of maturity and a wide range of experience to the job.

There are frequent indications, according to Elliott and others that the framers intended the Senate to be almost aristocratic in its makeup, in contrast to the more plebeian composition of the House. It was recommended, for instance, that Senators serve for life, that they meet certain property qualifications, and that they not be compensated for their work, thereby assuring that only the affluent could qualify for service.

This attitude survived until the ratification of the 17th amendment in 1913 which provided for the direct election of Senators. Since that time Senators have been regarded as representatives of all the people of the various States.

Whatever disparate views they may have held concerning the terms of Senators, our Founding Fathers firmly believed in the concept of the citizen legislator. It was their opinion that a Member of the Congress should remain as close as possible to the people he or she represents. Thus, until modern times it has been customary for Congressmen and Senators to return to their constituencies regularly for long periods of time and even to continue in their chosen fields and professions while serving in the Congress.

With the growth in the size and role of Government, and enlargement of congressional responsibility and improvements in technology, the Congress has become a year-round legislature. Members are expected to be full-time legislators, devoting their skills and energies exclusively to congressional duties.

The purpose of the constitutional amendment being proposed is to insure that, as full-time legislators, Congressmen and Senators, remain responsive to the needs and concerns of the people whom they were elected to represent; in other words, that the Congress return to the framers' concept of a deliberative body of citizen legislators.

Although the Constitution does not speak of limiting congressional terms, there is a provision limiting a President to two terms in office, the 22nd amendment. It seems to me, Mr. President, that the same arguments which support limiting the President's tenure apply equally well to a Member of Congress.

The House report accompanying the joint resolution which became the 22d amendment makes it clear that a majority felt that a two-term limitation would allow a President to concentrate less on the politics of being reelected and more on important questions of national policy.

Mr. President, the reform we are proposing here today is not a new idea; it is, however, an important one. In the late 1950's and early 1960's, former Representative Thomas Curtis, a Missouri Republican, introduced several joint resolutions designed to amend the Constitution along the lines of this proposal. Under his amendment, limiting all Members of both Houses to 12 consecutive years in office, they would be permitted to regain the office after at least a 2-year "sabbatical."

Mr. President, I call my colleagues' attention to the remarks delivered by Representative Curtis when he introduced House Joint Resolution 164 in the 88th Congress, on January 21, 1963:

"Mr. Speaker, I have once again introduced a proposal, in the form of a constitutional amendment, to limit the tenure of U.S. Senators and Representatives. In operation, this proposal would limit a Member of Congress to 12 consecutive years of service, two Senate terms or six House terms, and then require that he take a 2-year sabbatical leave before he would once again be eligible to serve in our National Legislature.

"This proposal, which I have offered in earlier Congresses, has often appeared in lists of 'legislation least likely to succeed.' And, to that conclusion I must sadly agree. Sadly, I say, because I believe that there is a kernel of real hope in this proposal, hope to improve the operation of our Congress and to help its Members do a better job in framing the policies for our country. Yet, despite the possible help which this amendment might provide, it receives no serious consideration from the Congress and little more from outside these two chambers.

"The kernel of hope which I see in this proposal is in two areas. First, it would help to overcome the detrimental aspects of the seniority system. I see many valid bases for recognizing the length of service in this body and in its committees as one of the factors of leadership. I have defended the system as

the best compromise we can achieve under our present rules of operation when shallow criticism calls for scrapping it without offering any valid alternative. The proposal which I have offered would allow a continued use of the seniority system by the chain of seniority would be broken from time to time and greater flexibility would be permitted in congressional leadership.

"The second aspect of this hope deals with the work of the individual Congressman. As the name implies, it is the function of Representatives, and no less of Senators, to represent the people from whom they have been sent to Washington. Representation, in this context, has two facets; to represent, the Congressman must use his best abilities in studying and understanding the legislation which is brought before him, and further he must strive to understand the community of which he is a part and which he is called upon to represent. This does not mean that he is to be a personified public opinion poll. There is more to representation, as the former part of my definition indicates, than being a mirror to the unstudied reactions of one's constituency.

"This sabbatical leave would give the chance to the Congressman to get reacquainted with his constituents and their feelings. It would put his feet back on the ground and would put him back into the mainstream of his community. Certainly the experience of recent Congresses, running for 9 and 10 months each year, indicates that there is to be precious little time for such a process of reacquaintance in the normal congressional year. I sincerely believe the Congress would be stronger for having its Members better attuned to the cross-currents of the districts which they represent.

"Perhaps once again it can be said that this is among those legislative ideas least likely to succeed. I hope, however, that it will be given serious consideration by those interested in improving the institution which served to formulate our national policies."

It should be noted that the Curtis amendment received the endorsement of former President Eisenhower, who had himself been precluded by the 22d amendment from seeking a third term in the White House. He is quoted as saying that "what is good for the President may very well be good for Congress."

What we are proposing today is not a rash, hastily conceived change to the Constitution. The purpose of the joint resolution is to submit to the people, by and through their State legislatures, the question of whether tenure for Members of Congress should be limited. Because of the controversial nature of this amendment, I expect there will be vigorous debate on the advantages and disadvantages of limiting congressional terms of service. The American people should and will be given ample opportunity to voice the opinions on this matter. After all, it took nearly 4 years for the 22d amendment to be approved after it has been submitted to the States. Constructive political reforms are worth the wait.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming (Mr. Wallop) is recognized for a time not to exceed 15 minutes.

Mr. WALLOP. I thank the Chair.

Looking around the Chamber I feel not a bit different that I used to feel at home when a bunch of cowmen got around to tell each other what their troubles were. I can see we are talking essentially to ourselves, but I hope some time in the course of this that the record will be read and the public will take note of what it is we try to do here.

There have been in this country for the last couple of decades serious attempts at election reform. Yet no matter how we try to reform the election process it profoundly favors the incumbent over the challenger.

I am not sure that that is not as it should be, but somehow or other it lays a ceiling on the participation of citizens in the processes of their Government.

This amendment, or either of these amendments, should they be adopted, would, think, open the process of Government service to men and women of all ages, at any stage in their lives, as has been brought out here before, and it would do that without in any way jeopardizing their State's relative position with regard to seniority and with regard to relative power in the country.

It would be a moving power that would translate itself from one end of the country to another as the processes took place.

I think the grassroots thinking reflected by this would represent a breath of fresh air and a change of attitude and perception in Congress. In a revolving process it could do nothing but good for Congress.

I am not unaware of problems that do exist in trying to limit the terms of Congress under the present election laws where Members are all elected at the same time and I do not essentially want a total change in Congress every 12 year in the House of Representatives, but within the Senate a different thing takes place, and it would mean that approximately every 20 years or 24 years, with a third of us being reelected at any given time, we would have a third of the body changed and the water recharged by that same process.

I have heard this referred to as a venerable body, and I would hope that the venerable bodies in it did not take remiss what is being presented because if one looks at the process that is going to take place should this ever come to pass, even if it were to be passed and voted by two-thirds of both houses this year and it took a full 7 years, which I have no doubt that it would be, it would be 20 years before the first Members who are now sitting here would be specifically affected by such constitutional amendment and they would, indeed, in most part be venerable bodies by that time.

The thing that happens is that so seldom does the opportunity for service present itself to the average individual. Almost anyone making a political decision makes it in an envelope in time, so matter who he or she is or where he or she comes from, and having failed to choose in a given time process reestablished then that loss is the country's loss forever, in most instances.

To involve the citizens is to involve them in a share of the burden of leadership and, I think, to restore trust in the Government of the United States. And there is no doubt in my mind that we will lose some significant talent either way we choose to go. There is no question that men of extraordinary talent would not be here for 20 years, 24 years, or 36 years, but there is also no question that men of extraordinary talent who would never have gotten here might well arrive here.

It is a question of strength of the system, the rejuvenation of ideas, and I think that is what we seek to provide and what we hope is an election reform proposition.

If one thinks, is the talent gone from the States, of course, it is not gone from the State or gone from the country. The talent could be used in the executive branch of the Federal Government. The talent could be used in the executive branch of State governments, in the legislative branches of State governments, and in service throughout the country whether at home or on the national level.

I do not think that it is fair for anyone to assume by any of us proposing this that we would like to have these strictures laid on any sitting Member of this body by the State in which he resides.

It seems only too unfair that until this becomes part of the Constitution of the United States that one State, to the exclusion of its own power in Congress, would run someone out for a second term because this is an idea that has been presented. That when and if it becomes part of the Constitution of the United States then it is a consideration. I see it now as no threat to a sitting Member.

Lastly, I think the desire for reelection to the second term would be sublimated to the philosophical and the real interest of the country. In those periods of time, free from the desire to attract special interest groups or anything else to cope with extraordinary costs of electioneering in the modern world, a man or a woman sitting in either House could make the best philosophical decisions of his or her political career. Too often now response to the political machinery of a political party is the sole reason that many people, who would wish to return to private life, stay in public life because their party says, "We cannot win without you."

I would say to them and to their parties that should this become part of the Constitution of the United States, "Go home, go live with what you have done, live with to whom you have done it and with their judgments and add your wisdom to the conversation of politics as it goes on through the course of time so long as you may live it."

I respect Senator Goldwater from Arizona and am grateful to see him co-sponsor this constitutional amendment. I appreciate it more than I can say.

I would say from all of us that I think there is probably nothing magic about the figures we have selected. They are out for debate. But the country must seek real election reform. This I think will at least establish the dialog on which that reform can be based.

Mr. President, I thank the Chair.

Mr. HAYAKAWA. Mr. President, will the Senator yield?

Mr. WALLOP. I yield the remainder of my time to the distinguished Senator from California (Mr. HAYAKAWA).

The ACTING PRESIDENT pro tempore. The Senator from California is recognized for a period not to exceed 6 minutes.

Mr. HAYAKAWA. Mr. President, I express my gratitude to the Senator from Arizona for his citation of historical precedent for citizen participation in government.

I am also grateful to the Senator from Wyoming for saying, as he did so eloquently, that seldom does the opportunity to serve in government present itself to the average person.

I speak for myself that many of us who have enjoyed reasonable success in our careers often wish to serve in government as a slight measure of gratitude toward the country that has served us so well. I would wish, therefore, to see not only more younger people involved in government but also more people in their mature years to serve as a measure of their gratitude.

I would like to see more people, professional men and women, businessmen and women, craftsmen, artists, musicians, newscasters, all sorts of people, get involved in public life. This is one of the reasons I approve so much of the amendment. It increases the number of occasions on which people see an opportunity to present themselves to the electorate as possible candidates for public office.

I would also like to see more lawyers think of public service not so much as a chance to make a lifetime career as professional politicians, but as a preparation for service to the community as lawyers. Therefore, I would like to see a limitation of their length of service built into the Constitution. In other words, it seems to me that the whole thrust of this amendment as proposed by my distinguished colleagues is all in the direction of greater citizen participation, therefore, all to the good. I thank the Senator from Illinois.

Thank you, Mr. President.

Senator DECONCINI. Senator Hayakawa?

TESTIMONY OF THE HON. S. I. HAYAKAWA, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator HAYAKAWA. I, too, would like to thank the distinguished members of the Judiciary Subcommittee on the Constitution for giving us this opportunity to speak in favor of Senate Joint Resolution 28, a constitutional amendment to limit the terms of office of Congressmen and Senators.

Many of the Founding Fathers envisioned an opportunity to run for public office as one of the freedoms that would keep the newly formed Republic strong and powerful. As General Pinckney stated during the drafting of the Constitution:

Every member of our society will enjoy an equal power of arriving at the supreme offices, and consequently of directing the strength and sentiments of the whole community * * * the whole community will enjoy, in the fullest sense, that kind of political liberty which consists in * * * arriving at the public offices

Political liberty was seen by General Pinckney, in this one sense, as the opportunity to serve in public office.

Now, when one person holds an elected office for an extended length of time, he often blocks the way for people with new ideas and fresh talent to serve the public. This amendment increases the number of occasions on which people can see a real opportunity to present themselves to the electorate as candidates for public office. I would hope,

therefore, to see not only more younger people involved in Government but also more people in their mature years leaving behind professions to which they have dedicated their careers.

Many of those who have enjoyed reasonable success in their careers wish to serve in Government out of gratitude toward the Nation that has given them such rich opportunities for self-realization. Business and professional men and women, craftsmen, artists, musicians, newscasters, all sort of people should have a greater opportunity to get involved in public life.

To go back to the Founding Fathers—citizens were envisioned by the Founding Fathers not only as having the opportunity to serve their countries as elected officials, but also to serve in that capacity as a strong member of their community. Roger Sherman, another of those who drafted the Constitution, observed that:

Representatives ought to return home and mix with the people. By remaining at the seat of government, they would acquire the habits of the place, which might differ from those of their constituents.

And of course, Mr. Sherman's fears have been realized. Come January following every election year, newly elected Representatives travel to Washington, D.C., and settle in. Most bring families. They send their children to the local schools; they join the legal churches and the local social clubs; and they make friends with other Representatives and Government people.

When we return to our constituents during the special recesses set aside for the purposes of returning to our communities, we are too often greeted as emissaries from Washington, rather than as members of the local community from which we were elected. This is to be expected. We come here fresh from the farm, from business, from the academic world, and are given the responsibility for millions and billions of dollars. We are invited to the White House. We are given beautiful offices and large staffs to put in them. We can park anywhere we want because of our special license plates. People say, "Yes sir," and jump when we snap our fingers. We hobnob with the diplomats, news media, presidents, and kings—people we would rarely have the opportunity to meet if we were not wearing the special insignia and clothing of a legislator. All too often we forget that we are farmers, teachers, and businessmen, not Greek gods.

This atmosphere is so intoxicating that after we are defeated, or after our term of office has expired, some people just cannot go back home to Idaho, or Minnesota, or California, or Rhode Island. They stay here, and stay here, and stay here with jobs as lobbyists because they get the intoxication—they get the sense that they belong here after they have served their terms, rather than in North Dakota or Rhode Island, or wherever they came from.

Constitutional limits are placed on the number of terms a President may serve so that Presidential authority will not reside too long in the hands of one man. I don't know why the same logic does not apply to Senators and Congressmen. We can apply the concept of curtailing power by limiting time in office to assure that legislative authority will not reside too long in the hands of too few people.

With a limitation to our length of service built into the Constitution, more people would bring to Washington the benefits of their

various talents and experiences while more closely representing the sentiments of the public. Representatives would not see public service as a chance to make a lifetime career as a professional politician, but rather as a genuine opportunity to serve the people of their communities and then return to them.

Thank you, Mr. Chairman.

Senator DECONCINI. Thank you, Senator Hayakawa. We appreciate those remarks.

Let me discuss a couple of things with you both, if you have a moment.

What is your response regarding the argument concerning a lame-duck Congressman; that is, that they will be less effective when they know that they will not have to respond to the electoral process 1 or 2 years down the road?

Do you have any comments on that?

Senator DANFORTH. I have not observed that to be the case. A number of people have announced that they are not going to run for reelection to the Senate and yet, from my observation, they are just as effective and energetic now as they were before they made the announcement.

I think that a person who serves here should be motivated by something more than the desire to win another election. I think that what should motivate the people who serve here, and what really does motivate most people who serve here, is the desire to use their best judgment on behalf of the people who elected them. It seems to me that that motivation is not washed out by the simple fact that you are not going to serve again.

Senator HAYAWAKA. The argument is based upon the often ineffectiveness of a lame-duck President. The function of a President is executive with the centralization of power in his hands. Therefore, when he is not about to be reelected, his power does diminish in the second term. Our power increases as Senators in the second term, it seems to me, because we are no longer anxious about being reelected.

As Senator Danforth has said, you notice some of our colleagues who have announced their retirement at the end of the present term are beginning to swing in a big way because they don't care any more about being reelected. They know they are not going to be running.

I feel very much the same about myself. One of the advantages of my age is that it does not matter whether I get reelected or not. I should have retired long ago, anyway. [Laughter] To not have these anxieties about whether or not you are going to be reelected, this gives you a real opportunity to go for broke and to swing with events and to really speak on your convictions in a way that you have been a little timid about doing somewhat earlier when your future fate hung in the balance. I do not believe that the argument about the lame-duck incumbent holds water at all in the case of legislators.

Senator DANFORTH. Mr. Chairman, I think it also raises an interesting question: "Are you elected to be popular or are you elected to use your best judgment?"

I do not think that you are elected to be popular. There are times when you just have to call them as you see them. You have to use your

best judgment, based on an indepth understanding of the facts that are before you.

In fact, the notion that an election is ahead of you, as Senator Hayakawa indicates, might have a chilling effect on "swinging with the times" or doing what you think is absolutely right.

It seems to me that the sense of responsibility to the people who sent you here comes not from the notion that you are going to have to run for election again. That sense of responsibility comes from knowing that you are one of the people, that they are responsible for getting you here in the first place, and that eventually you are going to have to return to live with them in the world from which you came.

Senator DECONCINI. I thank you both, very much, for being here. I appreciate your remarks. The record will stay open until mid-April for anyone who cares to submit any other information.

Senator DECONCINI. We thank you both.

Our next witness is Tom Braden, journalist, from Chevy Chase, Md.

Is Mr. Braden here?

Apparently Mr. Braden is not here at the time.

We have now listed on our witness list a panel consisting of Professor Ranney, Professor Ornstein, and Dr. Thomas Mann. Are they of those panelists here at this time?

Apparently they are not here.

Our next witness will be the Honorable Thomas B. Curtis, former U.S. Representative from the State of Missouri and former Chairman of the Federal Election Commission.

Mr. Curtis, I want to thank you very much for coming forward to testify before this subcommittee. I know you have been involved in this subject matter along with many other distinguished causes, and we look forward to having your statement this morning and your thoughts regarding this important area of constitutional change.

TESTIMONY OF HON. THOMAS B. CURTIS, FORMER U.S. REPRESENTATIVE FROM MISSOURI AND FORMER CHAIRMAN, FEDERAL ELECTION COMMISSION

Mr. CURTIS. Thank you, Mr. Chairman.

Let me say what a fine thing I think it is that this subcommittee is looking into this matter and trying to move forward the dialog.

The Wall Street Journal in a recent editorial against this proposed constitutional amendment, Senate Joint Resolution 27, made this very pertinent point: "If it ain't broke, don't fix it."

Is the representative system at the Federal level broke? Or in imminent danger of becoming broke? There are many reasons to reach such conclusions. Let me conduct a brief review.

Power has gone from the Congress to the Federal Executive to the extent that a phrase has been coined with wide currency which describes the situation, "The Imperial Presidency." Under the Constitution of 1787, the Office of the Presidency was created with limited powers and executive duties only, unlike the British system where the top executive, the Prime Minister, substituting for the Crown,

was also and basically a super legislator as well as the leader of his political party. In the 20th century, the U.S. Presidents, beginning with Woodrow Wilson, some may say Teddy Roosevelt, have laid claim to being leaders of their political parties, to be super legislators, and to be responsible to the people, not through, but over the head of, Congress. It is symbolic that the annual state of the Union message delivered to the Congress by the President, in person beginning with Woodrow Wilson, is in context and in fact, through television and radio, a message given directly to the people.

The President is not elected by the people. Strangely enough, a system philosophically quite like that set out in the Constitution has grown up by custom. The Constitution provided for an electoral college with the electors being elected by the people, to name the President. In a way the system which grew up to supplant it is an improvement over the electoral college system because it permits the people to elect electors to two electoral colleges, or even more, which "colleges" each proceed to nominate nominees for the Presidency and the Vice Presidency. These sets of nominees then run against each other in a national election which permits the people to choose between them.

However, the election of the electors is a mish-mash of party caucuses, State conventions, preferential primaries, and public opinion polls, and not as clearcut as the election of electors to the electoral college. So in a strict sense, the U.S. President is not elected by the people nor responsible to the people. At best, the people merely have a choice between two nominees named by electoral colleges, or party conventions, to which the people in a variety of unequal ways choose the members.

Power has also gone from the Congress to the Federal judiciary whose members are appointed, not elected, for life. The judiciary has usurped legislative power through the expansion of the power, questionable in itself under the Constitution, of determining the constitutionality of legislation passed by the Congress. This usurpation has been cumulative and has reached the point where Congress itself, has in effect acquiesced in this usurpation. In recent decades little Congressional debate is devoted to constitutional questions, either before passing legislation or after when the U.S. Supreme Court has issued its pronouncement on its constitutionality.

Power has also gone from the Congress of the Federal bureaucracy through the development of its power and responsibility to write regulations based upon statutes, but which in recent decades oftentimes go beyond the scope and intent of the laws written by the Congress. In this usurpation of power the bureaucracy is frequently backed by the Federal judiciary through its power to interpret legislative language. The Congress in the past decade has reacted somewhat to regain this power by requiring some agencies to submit their regulations to the Congress before they may be promulgated. However, the cure aggravates rather than corrects the malady.

Power has gone from the elected Members of the Congress to the permanent staffs of the congressional committees. Power has gone from the State and local governments where representative government, simply because of smaller numbers and smaller geographical

size, is more alive and responsive to the people than the nonrepresentative executive, judiciary, and appointive regulatory branches of the Federal Government.

In a sense the Congress has been relaxed about these usurpations of power, particularly that of their professional and rather permanent staffs, because the Members feel secure that they can regain the lost power anytime they wish.

Congress can regain its lost power anytime it wishes, but events in the past decades demonstrate rather forcefully that the Members are not taking this course of action. Indeed, the course is increasingly one of acquiescence in the new losses of power. Congress has become bureaucratized and less responsive to the people.

One striking loss of power, and this is somewhat of a digression but a very interesting thing—of the Congress and diminution of representative government was the result of what was hailed at the time as a major reform improving representative government, namely the 14th amendment to the Constitution—1913—which took the power of selecting the U.S. Senators from the State legislatures and gave it directly to the people. With no spokesmen responsible and responsive to the State governments as institutions in the Federal Congress, the authority of State governments and their creatures, local governments, steadily eroded with the accretion showing up in Washington, D.C.

Why doesn't the Congress structure itself so it can exercise the powers for which it is responsible under the Constitution? I think the answer can be found in studying and understanding the phenomena which has come about since World War II, that of Congress staying in session almost 12 months out of the year and the Members increasingly being long-term Congressmen with the power of the institution resting more heavily in their senior hands.

Congressmen increasingly are living in Washington, D.C., with their families and not in the districts and the States which they seek to represent. The more senior the Congressman, the more certain he is to be a resident of Washington, D.C., and the longer he has been a resident of Washington, D.C., the farther away he gets from his constituency.

Now one would assume that the election process would serve as a deterrent to this development. A Congressman not living in his district or State should be a good target for removal at election time. But the facts are different. Since World War II over 90 percent of the incumbent Congressmen who run for reelection—and this around 90 percent of the membership—get reelected whether they are conservative, liberal, Democrats, Republicans. The perquisites of a congressional office give the incumbent a tremendous advantage over any challenger and when the perquisites are used improperly, as in increasingly the case, not in representing the constituency but in getting reelected, the advantage is almost unsurmountable. The longer a Congressman serves, the easier it is for him to get reelected. He is Mr. Big running against Mr. Nobody.

Furthermore, the modern day Congressman gives a higher priority to getting reelected than being a legislator, a point that Senator Danforth makes more forcefully than I do in my remarks. He ration-

alizes this position by asking himself a rhetorical question which upon analysis is an appeal to the ego and so gives the impertinent answer, "If I am not reelected, what good am I?" Then he confuses the ombudsman function with the function of a legislator. The two functions do merge at a point just as the function of reporting back to the people, a necessary function of a legislative representative, merges with the function of getting reelected, which is a personal function. The main grist for the legislative mill comes from the people expressing their grievances, which right the first amendment properly protects. Hence, a representative should hear the grievances of his constituents and check them out to see if they are real, and, if so, whether the executive and administrative branches of government are faithfully executing the laws Congress has written, or whether the law itself is faulty, thereby calling upon him as a legislator to correct the law. It is highly improper for a legislator to interfere individually as a politician or as a legislator in the orderly execution of the laws. Yet, in the overenthusiasm of gaining the good will of the constituents by processing their cases of grievances with the bureaucracy, the Members of Congress increasingly forget their limited role of legislator. The increased powers of the Federal Government over the activities of the people, of course, increase this activity which in turn enables a Congressman to get reelected not as a good legislator but as a good ombudsman.

Added to all this, the national news media, particularly since the advent of television, radio, national news syndicates, national magazines, today stands between the representative and his constituency in reporting back to them on what is transpiring in the legislative mill. What is reported becomes more important than what has occurred. Gaining the good will of the national news media has become an overriding factor in Federal political life, to the extent that those who control the reporting mechanisms have acquired vast political power. Needless to say, the media moguls are not elected by the people nor responsible to them except in a commercial way. So, in the reelection process, the national news media being generally supportive of the development of the Imperial Presidency, the rule by the judiciary, the encroachment of powers by the bureaucracy and the concentration of power at the Federal level, tend to downplay whatever efforts may be made by the Congress to correct its procedures, improve its ethics and so regain its lost powers. The recent limited reforms adopted by the Congress which in essence have lessened somewhat the power of the senior Members, who are denizens of Washington, have been inadequately reported to the people.

In this entire process the two major national political parties have become so weak that they play only a minor role. They are of little help to the people in gaining control over the big Government in Washington. Indeed, public relations firms, having learned to manipulate the news media and armed with scientific techniques to test and to mold public opinion, have become more important in nominating and electing Senators and Congressmen, not to mention Presidents and Vice Presidents, than the two major political parties.

It is my judgment that although representative government in the United States is not broke, it is in serious danger of going broke.

There are three symptoms which seem to be lethal to representative government which have developed:

One, the biggest lobby group in Washington today is the Federal bureaucracy based in Washington. This is so even though section 1913 of title 18 of the United States Code, originally enacted in 1919 and restated in 1948, makes it a criminal offense for Federal funds to be used to lobby the Congress. Congress early provided the proper way for the bureaucracy and the executive to present a case and its argument to the Congress, namely, through the congressional committee hearing process. Section 1913 not only is not enforced by the Attorney General or by Congress which could do so, it is regarded as naive and irrelevant by the Washington sophisticates. We see this going on right today, and it was going on during the 18 years I was in Congress, whether it was a Republican or Democrat President. It was the role of the Imperial Presidency to ram through the measures that it decided was right by whatever techniques that might be available.

Two, the Congress is the only sizable institution in our society which is not annually audited by outside auditors and the audits made public. This secrecy invites corruption and what is equally sinister, blackmail. Selective concealment and selective disclosure is a powerful force which constant and timely full disclosure nullifies. I am talking about symptoms. Symptoms that are allowed to grow to where the whole institution, in my judgment, is corrupted.

Three, the items which constitute the bulk of the annual budget presented to the Congress by the President today are called and accepted by the Congress as such, "uncontrollable items." "Uncontrollable items" are items which do not go through the appropriations process established by the Congress, but are the result of an accumulation of what are called colloqually "backdoor" spending items—automatic spending formulas built into permanent legislation. Of course, every single one of these items is controllable by the Congress through its power of legislation.

Congress can identify and eliminate all three of these symptoms, but will correct the symptoms, major as they are, cure the malady? The very failure of Congress to face up to these matters, and others unmentioned, indicates that the malady itself which gives rise to these lethal symptoms is deep rooted, cancerous, and deadly itself.

The key question to be determined in the diagnosis of the body politic is whether the Congress can cope with the issues facing a technological society experiencing a knowledge explosion of unmeasured extent, as the United States is, on a part-time basis which permits the representatives comprising it to live in the communities they seek to represent, or must they be full time and live with their families in Washington, D.C.?

If the answer is the latter alternative, then we must change the structure of government in another way if representative government is to survive and flourish. This, the proposed amendment before the committee, will do.

My own judgment is that the Congress composed of part-time representatives—generalists, and again I am referring to Senator Danforth's testimony, who live in the communities they represent—can cope with today's problems. I am attaching to these remarks a paper

I prepared which was published in the St. Louis Globe-Democrat last year in which I discuss this interesting question in some depth.

Senator DECONCINI. Without objection, the articles will be inserted in the record.

Mr. CURTIS. Even if I am correct in the assumption that part-time representatives can do the job, and do it better than full-time representatives, I think a constitutional amendment limiting the term of Congress would be healthy and very beneficial.

I do suggest an amendment which I hope the committee will consider. Why not let a Congressman who likes the job and is good at it serve another set of 12 years, if he lies fallow for 2 years and takes a sabbatical leave, maybe at full pay. The discipline of the election process remains in full effect because in the interim period of 2 years someone else is serving who also might like the job and he would not be Mr. Nobody running against Mr. Big.

Thank you, Mr. Chairman.

Senator DECONCINI. We thank you very much for your testimony, I would like to ask a couple of questions if I might.

We have you here so we'll do that.

On page 4, I would like to clarify one part of your testimony. You make the suggestion that the growth of the Federal Government would have been checked if the Senators were still appointed by the State governments. How do you come to that conclusion?

Mr. CURTIS. Because I think a representative is responsive to the group which elected him. If the State legislatures were still the ones who were electing Senators, they would be responsive to them. Let me hasten to say in clarification. This does not necessarily mean I want to repeal the 17th amendment because there are other reasons such as the corruption that grew up in the selection of U.S. Senators by the State legislatures which brought it about, but the fact does remain that when a U.S. Senator was representing the State government as an institution, then he was very jealous about the Federal Government moving in and taking over powers that rightly were at the State and local level, particularly the local level. That's the point I am trying to make.

Senator DECONCINI. The argument of limiting the term under that system would also be valid?

Mr. CURTIS. It would be valid but sort of an indirect way. I hope other ways could be developed to emphasize the importance of somebody paying attention to State and local government and to ask the question each time a bill is proposed increasing the power of Federal Government: Does this need to be done at the Federal level or could it be done better by local and State governments? This question is asked to some degree, but not as forcefully as I think it should be asked.

Senator DECONCINI. It is fair to say that in your view there is a direct relationship between the Federal Government activities and term limitation; that is, do you really see a decline in the role of the Federal Government if these constitutional amendments were passed?

Mr. CURTIS. I certainly do, yes, because of the rational process that would come in. One would find that if a Representative lived in this district, as Senator Danforth so well described, and knew he was go-

ing back to the community from whence he came, and, in fact, looked upon the job as I did when I was in the Congress, as taking on a temporary additional duty and a great experience but one that was limited in term, then I think, yes, things would take an entirely different course of action from this approach.

One of the problems that we are troubled with in setting up any government is that power tends to feed and grow on itself. You see it here when you come down here. You do get impressed with the importance of your job. It is an important job. You sort of like it. It is a natural human instinct to want to enlarge your power. I think this has come about this way, in a kind of creeping way.

I mention one symptom, in the budget area. The real affirmative job of the Congress is expenditures. It is not taxation and it is not monetary policy, those should be as neutral as possible. But expenditures policies should be affirmative. But here the Congress has totally lost control—I repeat—totally lost control of expenditures. This recent budget reform isn't going to do the job.

When Congress calls items in the budget, uncontrollable items, this is pushing responsibility under the rug. Of course Congress can control every single item in the budget.

Senator DECONCINI. If they just had the will to do it?

Mr. CURTIS. Or established the procedures to do it. The appropriations process now catches less than half of the items in the budget. The greater bulk is in the so-called uncontrollable areas. This is a matter of self-discipline that I think would come about with representatives being more responsive to the people.

Senator DECONCINI. Do you agree with the statement that Congressmen and Senators are really ombudsmen for their constituents in many areas?

Mr. CURTIS. I do. I discussed that in my statement.

Senator DECONCINI. Let me pursue that. I find that to be very true. I think other Senators do also. I consider it a very important part of my responsibility. I'm sure you did when you were a Congressman. Do you think that a Congressman or a Senator would be less responsive to those ombudsmen responsibilities if he were, or she were, really a lameduck and not able to seek reelection?

Mr. CURTIS. I think they would be more responsive and in a more proper and effective way. Being fresh from the community and closer to it, they would be better able to balance off the special interests against the other interests of the community.

Let me restate my point by quoting from my statement:

The two functions do merge at a point just as the function of reporting back to the people, a necessary function of a legislative representative, merges with the function of getting reelected, which is a personal function. The main grist for the legislative mill comes from the people expressing their grievances, which right the First Amendment properly protects. Hence, a representative should hear the grievances of his constituents and check them out to see if they are real, and, if so, whether the executive and administrative branches of government are faithfully executing the laws Congress has written, or whether the law itself is faulty, thereby calling upon him as a legislator to correct the law. It is highly improper for a legislator to interfere individually as a politician or as a legislator in the orderly execution of the laws. Yet, in the overenthusiasm of gaining the good will of the constituent by processing their cases of grievances with the bureaucracy, the Members of Congress increas-

ingly forget their limited role of legislator. The increased powers of the Federal Government over the activities of the people, of course, increase this activity which in turn enables a Congressman to get reelected not as a good legislator but as a good ombudsman.

Part of what I am saying is this. A lot of the work that Congressmen do—and it is the result of over enthusiasm—is improper. It is not their business to write to a bureau and say: “You have done this and now change it.” The proper approach is to say: “What have you done and what is the situation and if the law tells you to do it I’ll defend you. I will then do my job as a legislator to get the law changed along a just line.”

But let’s all of us who have been in Congress think back to the constituent cases that we have processed? Have we been careful in processing in this kind of a way? The failure to be careful has built up a monster today. I’m afraid, by our failure to distinguish between the functions of ombudsmen and legislator.

Senator DECONCINI. Let me ask one more question.

Given the fact that you were able to look at the electoral process from the unique vantage point of the Federal Elections Commission, what factors would you say have had the largest influence in making incumbents almost unbeatable?

Mr. CURTIS. The misuse of congressional prerequisites. If it were properly done—

Senator DECONCINI. Such as franking privileges?

Mr. CURTIS. Yes, that’s one. Here is a difficult thing. I saw it so many times as chairman of the Federal Elections Commission in our cases and studies and so forth. I would make this point. It is difficult to distinguish between properly reporting back to the people because that’s what a representative should be doing, and getting reelected. So you can say that the franking privilege is part of the representative function, and indeed it is. When you go beyond that and use your newsletter for getting reelected is another thing. Both House and Senate have come forward with various disciplines to correct the situation. I think there is a limit to the number of pictures that can be put in the newsletter; for example, the Congress understand that there is a distinction, between fulfilling the representative function and getting reelected.

Getting back to the Federal Elections Commission, I said that the main thing I would like to see is to have the use and cost of perquisites out in the open. I’m not so much for the FEC making a judgment as long as we have the elections process, which is a good discipline, but just so everything is out in the open. Everyone will know what is going on and take issues if they think something is wrong or improper.

Neither the House nor the Senate has disciplined itself by, again, going back to my presentation being independently audited. A lot of these audits have to do with congressional committee audits, but there is also the audit of the individual Congressman’s own staff, office, and other expenditures. Let the audits be annual, independent, and public.

I guess the biggest misuse is using the professional staff to get reelected. Many Congressmen and Senators don’t see anything wrong with it.

If I can further amplify, I recall testifying before Senate and House committees and one Senator once said to me: "You mean to tell me the Federal Elections Commission can regulate Senators and Congressmen?" I said: "No, we have no authority to do that, but as I read the law we have every authority and responsibility to regulate any candidate for Federal office whether they are a Senator or a Congressman." The Congress, as it was, didn't like this prospect very much.

I have one other point. This is for the record.

I chaired the Twentieth Century Foundation Study Into Senate and House Campaign Financing, the financing of congressional elections, back in 1972. We had recommended an independent Federal elections commission, but we also had recommended against Federal financing of Federal elections and indeed limitations of spending and there were full and timely disclosure of giving and spending because then those items could be issues in a campaign itself. If the disclosures were timely, then the people's judgment of the propriety could enter into it.

Our conclusions were these. The most worrisome thing since World War Two, 93 percent, I think, was the figure than, of incumbents running for reelection got reelected. And 90 percent of the incumbents did run for reelection. Then we pointed out that it was misuse of these perquisites that we thought lay basically behind the phenomena. I think though even more serious, perhaps, than that, or because of it, is that Mr. Big is running against Mr. Nobody. This involves the news media. This and his ombudsmanship probably enables the incumbent to get reelected.

Senator DECONCINI. Thank you very much. We are greatly indebted to you for taking the time to appear. Your statement will be extremely helpful to the committee.

Mr. CURTIS. Thank you very much.

[The series of articles from the St. Louis Globe-Democrat submitted by Mr. Curtis follow:]

[From the St. Louis Globe-Democrat, Feb. 16, 1977]

REVELATIONS ON CONGRESS BY A FORMER MEMBER

(By Thomas B. Curtis)

(This is the first of three columns on Congress by former U.S. Rep. Thomas B. Curtis.)

The Globe-Democrat had a perceptive editorial discussing Congressional salaries, entitled "The Fine Art of Pocket Lining," in which the point is made that until the members of Congress "stop lining their pockets in an assortment of ways, they don't deserve even a token pay increase." This is quite right; indeed, it is a question whether they deserve the present pay they are receiving as the pay scale should be predicated upon the assumption that the job of a congressman is part-time, not full-time.

Indeed, if the job of a congressman ever became full-time, I argue, we must then reevaluate the basic concept of our system of representative government, and change it so we do get representatives who primarily live in their districts and states, not in Washington, D.C.

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The House of Representatives in recent years has been called by the news media the Tuesday to Thursday Club, because its daily sessions were held primarily on Tuesdays, Wednesdays and Thursdays. The daily sessions, with

very few exceptions, begin at 12 noon and adjourn before 3 p.m. Most sessions are over in less than two hours, some in just a few minutes. The business conducted is special and perfunctory, with only a small number of congressmen in attendance, maybe 20; in the Senate, a half dozen. No quorum calls are made nor record votes taken. The time taken for daily sessions averaged out over the year would be about 10 hours a week, which would include the real work sessions, requiring attendance of a quorum (100 for work in the committee of the whole which takes up most of the time and a simple majority of the full membership for the rest of the time), and the jammed-up two weeks at the end of the session where the work time goes up to maybe 15 hours per week.

But Congress does most of its work in committees. How much time does a congressman spend on committee work? The House has 22 standing committees, the Senate 15. In the House a member serves on only one committee if it is a major committee and never on more than two committees. So the workload is spread over 435 members in the House and 100 in the Senate. Furthermore, committee work is spotty. Some committees meet only a few times in a year's session and then for only a few hours. Some committees will meet rather steadily for two and even three months, but then meet hardly at all for the rest of the time or 10 months.

Committees usually begin their meetings at 10 a.m. and go until 12 noon. Sometimes they have afternoon sessions beginning at 2 p.m. and usually ending around 4:30 p.m. A congressman on an active committee may spend about 100 hours a year on committee work if he is a regular attender—this is about two hours a week if it were averaged out. I am considering subcommittee work as committee work. Most of the work is done in subcommittee. Some full committees meet hardly at all—merely to rubber stamp the work of their subcommittees.

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Committee attendance is very spotty, particularly during public hearings where maybe only two or three members are present. One reason for the controversy over proxy voting in committees is the slack attendance at committee meetings. The attendance during the daily sessions of the Congress, particularly during the committee of the whole, is very low. The congressmen who attend committee meetings with regularity are generally about 20 to 30 per cent of the total membership. About 70 to 80 per cent of the members are not regular attenders either in their committees or on the floor of the two chambers.

What else does a congressman do in carrying out his official duties? He processes his constituencies' problems. However, for this he is given a staff of 19 (in the House), about 50 in the Senate, to assist him and the supervision of the staff is carried on by the congressman's executive assistant. One begins to understand how a senator or representative can be absent from his office and even away from Washington so much without his constituents or the public knowing it.

I had the reputation, which I think I earned, of being one of the hardest-working members of the Congress (1951-1969) among the 20 to 30 per cent, so I can say with some credibility that a congressman who organizes his own time and that of his personal staff, utilizes the staffs of his own and other committees, of the Library of Congress, and of the GAO, and the personnel of the federal bureaucracy and of private organizations can handle the congressional workload with ease. It is not a full-time job.

Thursday: Benefits congressmen get.

[From the St. Louis Globe-Democrat, Feb. 17, 1977]

HOW CONGRESS MISUSES PUBLIC FUNDS, SERVICES

(By Thomas B. Curtis)

(This is the second of three columns on Congress by former U. S. Rep. Thomas B. Curtis.)

Let's consider a question which has been neatly pushed under the rug in the past decades as we have continued to increase the salaries and perquisites of

the members of Congress. Is the work of the Congress today so demanding and time consuming that it cannot be carried on by representatives who primarily live with their families in the districts and states they seek to represent? Maybe it is. But let's not beg the question. Let's look at the work load.

First, let's look at some of the benefits congressmen get as the result of the job being considered part-time. The congressmen get a tax break for the cost of maintaining a temporary extra residence in Washington, D.C., on the assumption that their primary residence is in their congressional district or state. The congressmen are permitted to earn up to \$25,000 annually in honoraria for speeches delivered outside the Congress and for writing articles for various publications. They may pursue their businesses and professions on a part-time basis.

Furthermore, congressmen spend a lot of their own time and illegally the time of their full-time congressional staff, and illegally use many of the perquisites of their office paid by the taxpayers, and collect a lot of outside money to get reelected. Getting reelected is not part of the job of representation, albeit it may be important to the congressmen and our representative system of government.

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How do congressmen find time from their allegedly heavy workload to run for reelection, to earn these honorariums from outside speeches and write these articles and pursue their businesses and professions? How do they find time in addition to take the overseas (and domestic) junkets paid for primarily by counterpart funds (acquired by selling off excess military equipment and agricultural surpluses)? I am not talking about legitimate committee investigating trips which are designed and needed to carry out the responsibilities of Congress. I'm talking about junkets—pleasure trips.

The answer is, it is easy to find the time because the time of the congressmen in the fulfillment of his congressional duties is not full-time.

Just what is the extent of the congressmen's outside "earnings"? What all is included in this art of pocket lining? No one really has the full picture and we will never get it until all congressional expenditures are subjected routinely to an independent public and annual audit, just like all other parts of the federal government.

I am not talking just about congressmen and their personal staffs and all the add-ons that are available to them; I am talking about committee expenditures and those of the other bundles of employes of the House and Senate, including those employes of the two political parties paid for with tax money. We have to look at the outside contracts let by the Congress and its committees for studies and services, etc., many of which are multi-million in dimension and "let" to universities and "think tanks" such as Rand Corporation, Brookings Institution, National Planning Association, etc.

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Certainly the multi-billion dollar construction and other large contracts Congress lets from time to time for building offices and procuring equipment should be subject to an independent audit. It has been a scandal for decades that the congressional expenditures are not independently and routinely audited, and these audits made public. Most of these expenditures come under the purview of the House and Senate Administration Committees.

It is any wonder that Congressman Wayne Hays, as Chairman, of the House Administration Committee, has the power over his fellow congressmen his brief exposure revealed and that his exposure was merely the tip of a very large iceberg? An iceberg which after exposure of its tip has been allowed to drift and remain an ominous threat to our ship of state.

Add to all this the loose money that floats around the halls of Congress designated for election purposes, if designated at all. This also needs to be audited, exposed and eliminated or at least tied down. A great deal of the honoraria are thinly disguised election contributions and often times out and out bribes. So are attorney, public relations and consulting fees.

The misuse by congressmen of funds and of services paid for by the taxpayer provided them to represent the people, not to get the congressmen reelected, needs to be exposed and stopped.

Friday: "Bag men" for colleagues.

[From the St. Louis Globe-Democrat, Feb. 18, 1977]

MEMBERS OF CONGRESS AMPLY PAID FOR WORK

(By Thomas B. Curtis)

(This is the last of three columns on Congress by former U.S. Rep. Thomas B. Curtis.)

Some congressmen go into the business of being "bag men" for their colleagues in collecting and distributing "election" funds. This gives them added power over their colleagues. This practice should be stopped. Much of these "election" funds—not being audited, not being reportable, not being known—end up in the congressman's personal bank account. Yes, the IRS can do something about it and frequently does, but the wise but corrupt congressmen know that IRS records are confidential (and this is as it should be) so they are careful to list this boon-doggle as income and pay taxes on it so they do not run afoul of the IRS.

The independent Federal Election Commission created by the 1974 law was doomed when the Supreme Court, in an unscholarly opinion reflecting gross ignorance about our system of representative government established in our Constitution, gave Congress an unexpected opportunity to "disembowel the commission", to use Wayne Hays' inelegant expression. As chairman of the FEC I had said that the FEC was required by the 1974 law to look into all campaign contributions and expenditures in cash or in kind by candidates for federal office whether they were incumbent congressmen or not, and the commission was proceeding on this course.

Several senators and congressmen, including Hays, put it to me bluntly: The FEC has no right to look into those matters. Hays and his colleagues, a majority in the House and Senate, were not about to have an independent FEC or anyone else looking into these matters and they enacted the 1976 amendments to the Federal Election Law which regretfully President Ford signed, which insured that the new subservient FEC would not do so, and it is not doing so.

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Now to the key question: Is the workload of the Congress in this era of advanced technology, with added responsibilities assumed by the federal government, and the increased interest our society has in international affairs in a shrunken world akin to a space ship, such that it requires full-time congressmen?

I have given some negative references to support the contention that the workload is not full-time. Let's look at the time sheets to see what they show.

Since 1942 the Congresses have been in session almost 12 months out of each year with two exceptions. Before World War II, the congressional sessions with some exceptions covered only six months each year, sometimes less. There were some third sessions, lasting just a few months, because the regular sessions were so short. These Congresses did reasonably good work. The two exceptions I referred to, the 80th (1947-48) and 83rd (1953-1954) Congresses were two of the most productive post WW II Congresses, and came close to abiding by the statutory date for adjournment, July 31.

In the 1946 Congressional Reform Act, Congress provided that except in times of war or national emergency the Congress must adjourn by July 31 of each year. Was this Congress just being foolish in setting such a schedule? I think not. They assumed the Congress would go to work.

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None of the post WW II Congresses (15 in number), except the two I mentioned, have abided by the spirit of this law, to adjourn by July 31. The fact that the Korean (War) national emergency declared in 1950 had not been repealed provided them the technical excuse to go beyond this date. Why did not Congress forthrightly repeal the July 31st provision? The answer probably is that this might have produced public hearings when the key question might have been asked, how many days, more importantly, how many hours, have the post WW II Congresses and their committees been in session?

So the issue raised in The Globe-Democrat is rather basic to representative government itself. The congressmen are part-time employees of the people. They should disclose all their interests. They should not take any money from lobby

groups for speeches or articles. They should account openly with timely and full disclosure for all their revenues and services in kind received from the government and from those seeking to help them get reelected, and all their election expenditures.

The congressmen are amply paid. In fact, their salaries are too high for part-time employes. They need the economic security of having a job, a trade, a profession, a farm or business to fall back upon if they are defeated for reelection. This gives them independence. They should always be willing to court defeat for voting and speaking their views. This independence they can have if the part-time nature of their role is kept clearly in the public's mind. Above all, they can remain a part of the communities they seek to represent and speak for them, and not become denizens of Washington, D.C. too available to the pressures and mores of the artificial community which is so overrepresented in our government today.

Senator DeCONCINI. Our next witnesses will be Prof. Austin Ranney and Dr. Thomas Mann.

Gentlemen, will you both join us at the witness table? I want to thank you very much, gentlemen, for taking your time to come and testify today. You may proceed in any way you see fit.

**TESTIMONY OF DR. THOMAS E. MANN, ASSISTANT DIRECTOR,
AMERICAN POLITICAL SCIENCE ASSOCIATION, WASHINGTON, D.C.**

Dr. MANN. Thank you, Mr. Chairman.

We have a panel of three people, Austin Ranney of the American Enterprise Institute is here and Norman Ornstein will arrive shortly. I think you should know that we have no written testimony. What we thought we would do is outline some of the arguments we would like to make and then perhaps have a discussion with you on those.

Senator DeCONCINI. That's fine.

Dr. MANN. It is also important to realize that we are not here representing the American Political Science Association or the American Enterprise Institute or Catholic University. We are here as individual political scientists and scholars and people interested in the Congress, elections, and American politics generally.

I suppose the most important point we would like to make is that one must realize that significant opposition to this amendment is not limited to some sitting Members or a majority of sitting Members of the House and the Senate. In fact, a large number of those who study the Congress and elections have very strong views on this particular amendment. Although one can never speak with unanimity of any group of professionals, I think it is fair to say that the vast majority of political scientists feel that this particular amendment is ill-advised.

I was in Ann Arbor, Mich., last week with a large group of scholars of Congress, of the electoral process, and of American politics generally; scholars concerned about the power of incumbency, the lack of turnover, and a whole host of other factors.

I questioned them on the constitutional amendment and to a person they all opposed it. So I feel we have somewhat of a mandate on this.

What I would like to do is outline four areas of concern that we have about this amendment and then Mr. Ornstein and Mr. Ranney will flesh out that outline.

I suppose the first thing to begin with is: "If it's not broke, don't fix it." Maybe that is our overall orientation. The first argument against the amendment is that it really is an infringement on individual liberties, both the liberties of voters and officeholders. Moreover it is essentially antidemocratic. It just does not trust the electorate to decide for itself whether an individual should be returned to office or not. In fact, it substitutes an arbitrary rule for the collective judgment of citizens in this country. So that is the first problem we see.

Second, we think it would serve to weaken the position of elected officials vis-a-vis bureaucracies. It seems to me that the public is just as concerned about the power of those bureaucracies as any concern they've expressed of the misbehavior of elected officials.

Issues are increasingly complex. It takes time to learn those issues. What happens is that members here only a short period of time necessarily come to rely heavily on the staff, be it their personal staffs or staffs in the executive branch or staffs of the interest groups themselves. In fact, our evidence from State legislatures indicates that a very high turnover means heavy reliance on leadership in the institution and on the interest groups.

The third area of concern is that if the amendment is directed at the lack of sufficient turnover in the House and Senate, then the more appropriate response is to take steps that will spur competition, not impose some sort of arbitrary rule. We can talk about that. I think that Professor Ornstein will speak to some of the advantages of incumbency and the nature of the turnover and what one might do directly to spur competition, if that, in fact, is what one is interested in.

Finally, it seems the amendment is likely to fuel the anti-politician rhetoric characteristic of our times. We believe that politics is a noble profession, one requiring great skill, knowledge, and public spirit. To set an arbitrary limit on Congressional terms is to say to the public, "You just cannot trust those politicians." You continue to foster the development of anti-politics attitudes that we've seen in recent times.

I will stop here and have the other gentlemen flesh those arguments out.

Senator DECONCINI. Dr. Ranney?

**TESTIMONY OF DR. AUSTIN RANNEY, AMERICAN ENTERPRISE
INSTITUTE, WASHINGTON, D.C.**

Dr. RANNEY. I am Austin Ranney. I am currently resident scholar at the American Enterprise Institute and former professor of political science at the University of Wisconsin and the University of California, Berkeley. I am also a former president of the American Political Science Association which is relevant because that person is elected for 1 year and is ineligible for reelection.

[Laughter.]

I know what it's like to be in that situation.

Senator DECONCINI. Are you a lame duck?

Dr. RANNEY. I had barely taken over but what I was a lame duck. You are a lame duck almost before you are selected which is very lame indeed.

I would like to emphasize that I am making my testimony today purely in my personal capacity, and in no sense do I represent the views of the American Interprise Institute. I agree with my two colleagues here on all of the four points. But with your permission I would like to focus on a couple of them. I might preface my remarks by saying this. As I am sure the committee is aware, what is proposed in this proposed amendment in many ways goes very counter to most recent trends in the United States. As you know, not so long ago it used to be quite common for a number of States to have limitations on the number of terms that the Governors could serve. No new States have added that provision in some time, to my knowledge, and a number of States have removed it. I think they have done so for many of the reasons we are talking about here.

One of the geniuses, it seems to me, of our Constitutional system is that we don't put all our eggs in one basket. We have many different baskets, not the least aspect of which is that we select our President one way, and we select the members of the House of Representatives another way, and we have different lengths of terms in the Senate, and then, of course, the Supreme Court Judges have lifetime appointments.

All of this seems to be very good. All of these people have somewhat different perspectives on the policymaking process, and you get a kind of mix there that I think is quite healthy.

Now, as to the interference with freedom, this may seem a bit extreme, but when you come to think about it, it is truly an interference with freedom. If you take a particular person and tell him, "You have served already your allotted number of terms and you can no longer run again," that is an infringement of a person's right to run for office. If the voters feel, as they very well may feel, that they would rather return the incumbent to office because they know him or her, and they know his or her track record as against the less known challenger, and if you tell them you cannot do that, it seems to me that you are significantly infringing their freedom of choice.

Also, as Dr. Mann said, this is anti-democratic in the sense that it really doesn't trust the people to make wise decisions. It says that if you let office holders have an unlimited number of terms, you really cannot trust the people to get rid of them when they are not doing well. That is an argument that is offensive to me on moral grounds, and it is also offensive to me on empirical grounds.

There certainly is no evidence whatever that Government is run better or was run better in those States where you had a limit on the number of terms of Governors. In my view, the Presidency of the United States has not operated more efficiently now that we know that no President can serve more than two elected terms or a total of 10 years in office.

That being the case, I would go back to Dr. Mann's basic point. He put it more elegantly than I would. The most common version is, "If it ain't broke, don't mend it," or if you prefer the phraseology of the late John F. Kennedy, "If it is not necessary to change, it is necessary not to change." That has always seemed to me a very sound principle.

If one accepts that principle, then it seems to me there is a real burden of proof on the people who want to change the system, as it now exists, to show, first of all, a major evil that exists in letting senators and representatives be elected and reelected as many times as the voters in their districts and States are willing to do so. The advocates also must show that the clear evil can be remedied only by depriving people of their right freely to elect and reelect their Senators and Representatives as long as they want to. For all those reasons it seems to be not only that this proposed amendment is not needed, but it is wrong in both its moral and empirical premises, and I think it would do great damage to our constitutional system.

Thank you very much.

Senator DECONCINI. Thank you very much, Dr. Ranney.

Dr. Ornstein?

TESTIMONY OF DR. NORMAN ORNSTEIN, DEPARTMENT OF POLITICS, CATHOLIC UNIVERSITY, WASHINGTON, D.C.

Dr. ORNSTEIN. Thank you, Mr. Chairman.

I would like to emphasize that the three of us are not curmudgeons. We are not against change in the political system. We are not against reform, in fact, all three of us have been rather actively involved in structurally reforming the party system.

I would also like to suggest that we are not against turnover. In fact, all three of us are very happy to see a healthy degree of turnover within both houses of Congress and we encourage it. We would find ourselves dismayed if there were no turnover or a very limited turnover in this institution. We do not want to see a Congress that gets hidebound with senior individuals.

Rather, we want to see turnover coming about through the process that the Founding Fathers intended, and that is through the electoral marketplace and not through some artificial means that would exist through this kind of Constitutional amendment.

There is no question that competition has decreased in both races for the House and Senate within the last dozen or two dozen years.

There is no question that we have a worrisome problem here, and that, in fact, the incumbents are getting safer and safer in both houses of Congress. This is more true for the House of Representatives than for the Senate, but it is certainly true for both houses. It is something that you, the members of the Senate and the members of the House, and those of us who observe the political system on the outside, have to be concerned about. We are worried about it in some fashion.

But we have had, in spite of this, a rather healthy degree of turnover within the last dozen years. If we look at the House and Senate today we find institutions that have over half of their members elected for the first time in 1970s. In fact, we are likely to find, by the time the 96th Congress convenes in January of 1979, that close to a majority of the members of the House and probably over 40 members of the Senate will have been elected for the first time and come to Washington since 1975. That's a lot of turnover. We see mainly junior faces roaming through these corridors these days.

Unfortunately, it is turnover that is coming through the back door in large measure. It is turnover coming through retirements which is something that all of us find rather disturbing as well.

What we see is a tendency towards public service in Washington becoming something rather unpleasant. People who are retiring in both houses are suggesting, in many cases, that they are retiring because it is a grueling place to serve, because it is not fun anymore, and because there are enormous public and private pressures on service in Government in Washington. We find accelerating retirements over the last several years. That is what has given us the turnover that we've had and that turnover is something that we can all appreciate.

What we would prefer to see, I think, would be measures taken within Congress that would turn this around, that would increase competition in the electoral marketplace by reducing some of the advantages that incumbents have, while at the same time maintaining some incentives for people to serve in Congress.

That brings us to another of the points which Dr. Mann made in his statement. We see a great deal of anti-politician rhetoric in the Nation and within Washington these days. It has become de rigueur to challenge the motives of politicians and to challenge the profession itself. All of us find this a rather disturbing phenomenon. We think public service through the electoral mechanism is something to be exalted and not something to be denigrated.

This amendment in my view and I think in the view of all three of us, fits in rather well with the anti-politician rhetoric. It suggests that if you serve around here for more than 12 years something is unclean about it and something is unclean about you. So those are some additional reasons, I think, that we tend to oppose this amendment.

Senator DECONCINI. Let me discuss this a bit with you. I would welcome your responses.

The two term period is only an indication of my desire in trying to pick something. Would your statements and position change at all if that would change, that is, if it were based on age, or based on four terms? Or, is this your feeling that there should be no limitation whatsoever?

Dr. MANN. I think the answer to that logically would be no limitation whatsoever, yes.

Senator DECONCINI. You talk about the infringement on the voters' rights. How do you square that with the infringement with the prohibition of the President in succeeding himself more than two terms?

Dr. MANN. To speak for myself, I opposed that amendment and continue to think it is bad.

Senator DECONCINI. Based on the same philosophy?

Dr. MANN. In large part, yes.

Dr. ORNSTEIN. I think the 22d amendment to the Constitution was a grave mistake and I would like to see it repealed.

Senator DECONCINI. Why is that? For the same arguments that the people should have the right to choose if they want to stay with somebody?

Dr. ORNSTEIN. Basically, yes.

Dr. RANNEY. Senator, I might add something. If that amendment had been in effect, let's say, in the original Constitution or put into

effect, let's say, in 1930 instead of when it was put into effect, and if the British had had a comparable kind of restriction, then neither Winston Churchill nor Franklin Roosevelt could have led their countries through World War II. It is difficult for me to believe that anyone could think it would have been a good thing to bar those leaders from serving at that time.

Senator DECONCINI. In retrospect I agree with you, but how do you answer the question, "Are these the only men who could have brought the countries through?"

Were they really so outstanding or did they just happen to be there at the time and reacted in a manner and under circumstances so that things turned out in a good way and we won the war and so on? Can we not assume that someone else might have been just as great or profound as those gentlemen?

Dr. RANNEY. In a sense that is unanswerable. On the one hand, yes, of course, someone else could have been just as great. But would those other persons, in fact, have been in office at that time? It seems highly questionable.

I remind you that Winston Churchill was preceded by Neville Chamberlain who certainly, to say the least, was not a very effective leader. I hope it will not be regarded as partisan of me if I say that Franklin Roosevelt was preceded by Herbert Hoover. There was nothing about either Chamberlain or Hoover to give me great confidence that they would have led their countries anything like as successfully as Churchill and Roosevelt did.

All I am saying is that if you have no limitation, then you have the voters to make sure the person will not become a tyrant and you have their judgment as to whether or not he is leading the country well.

If you have a limitation you may be playing Russian roulette and the kind of leader you need may or may not be in office when the crisis comes.

Another thing often said is, "Well, if you had these people in here and they are faced by great crises, why it turns out that they are very talented or they develop in office." We are always given the example of Harry Truman in that regard.

As students of American history know, there are many other examples, like James Buchanan who was President of the United States in the 4 years preceding the Civil War. It may be that an effective President could have prevented the outbreak of the Civil War. James Buchanan was a mediocre leader and did nothing whatever to stem the onrush of war.

The Lord will not guarantee that we will have an able leader in every position in case of great crisis. We had best not depend on that.

Senator DECONCINI. Underlining your point is the fact that people should make their choice. If they make a bad choice, that's their choice.

Dr. RANNEY. If they make a bad one, they have to bear the consequences. That seems to give them a right to decide who is going to be their leader.

Senator DECONCINI. How do you approach what I think is obvious and I would welcome you disagreeing with this if you so feel. What

do you think about the power of incumbency, both the concentration of power by the fact that they have been in office a long time and have certain seniority influence versus someone who, given a hypothetical or a laboratory setup, is truly going to be a new, good legislator but does not have that power that the incumbent has to get here? People should exercise their choice, but are they really given a choice stacked up against this overwhelming incumbency factor?

Dr. MANN. Let me make a couple of comments. One curious thing is that the longer incumbents stay in office the more vulnerable they become. It turns out, in fact, that one can look at the House and see the probability of reelection for all incumbents, which is obviously very high. It is highest in midcareer—second term, third term, and fourth term—but when members start 11 terms, or 12 terms, or 14 terms, the probability of losing increases. We can document that for the record if you would like to see it.

Senator DECONCINI. I would like to see it because I am surprised to hear that. At first blush, I don't think that is the case in the Senate, but maybe statistically it is.

Without objection, the record will be left open to receive this information.

Dr. MANN. From the mid 1960's through the mid 1970's, 10 committee chairmen in the House of Representatives were defeated at the polls in primaries and general elections. It's quite remarkable the discernment the public exhibits in defeating those who they feel have grown apart from them, or with whom they have become dissatisfied.

The second point to realize is that incumbents have always had an advantage. In fact, incumbents for every elective office in this country have a higher probability of winning. In fact, I do not know of any office for which that probability is below 70 percent or 75 percent. The question is that we are talking about is why it increased from 90 to 92 percent at the very time that Congressional perquisites have increased. Maybe it is the perks that account for it—that is possible, and I think we should look very carefully to see if that is a fact. A good deal of research has been done in this in the last couple of years. It is very difficult to attribute that marginal increase in the advantage of incumbency to the perks in particular.

Perhaps what is more important is the fact that our party systems have broken down, or at least have become increasingly weak in the last decade.

In the old days some degree of competition was insured by the fact that the people would vote their party line whoever the candidate, which means if they were 40 percent Republicans in that district, then, by God, those 40 percent would be voting against the incumbent. There is a good deal of evidence that in the late 1950's most votes were party line votes. That has changed. The parties are weaker and they are not as important. Candidates are not appealing to parties; in fact, they are running apart from parties.

With the absence of that tie to parties, incumbents pick up that natural increment of support.

I suppose one way to deal with it is to insure your opponent, let's say, in the State of Arizona, a half million dollars in financing for their election or in all House elections to insure a minimum of \$150

to \$250 thousand. That would certainly spur competition like nothing else would.

Dr. ORNSTEIN. I cannot speak for my colleagues, but I strongly favor public financing of Congressional campaigns in some fashion that would not—as it easily could do—enhance even more, the advantages of the incumbents.

Senator DECONCINI. This would go towards your argument about spurring competition through other means rather than restricting the number of years that can be served, is that right?

Dr. ORNSTEIN. Exactly. We all want to see competition, and we want to see turnover. The question is as to whether or not the turnover comes through artificial means or through some processes within the institution that are causing people to retire because they don't like the place anymore, or through the electoral marketplace which is what the Founding Fathers did.

Senator DECONCINI. If I am not mistaken, there seems to be a great pressure and responsibility on Members of Congress to be ombudsmen for their constituents. How do you relate to that problem as to whether or not that is really what legislators should do?

I think it is not, but is put upon them, and they find themselves having to do that in order to stay in office.

Because they want to get reelected the next election time, are they not more effective as far as constituent issues are concerned and less effective from the standpoint of meaningful legislation and doing what supposedly they were sent here to do?

Dr. ORNSTEIN. Mr. Chairman, since 1946 virtually every time that reorganizational reform has been discussed for the House and Senate, a number of people have proposed a central ombudsman office that would handle all case work for members of Congress. That proposal has not gone very far. Most Members of Congress plainly recognize that their incumbency advantage is, to say the least, enhanced by their ability to do constituent service, and to cut red tape, and to solve bureaucratic problems for constituents.

That is another type of change that would probably greatly enhance competition in the electoral marketplace.

As Dr. Mann says, when you have a party system that disintegrates or at least loses some of its importance in the system, then you get to the situation where individuals build their own individual bases and they develop their own individual reputations. They do this in large measure through their ability to handle constituent servicing.

Dr. RANNEY. I would like to add one thing on that, Senator. You are, as any good public servant should be, concerned about undue concentration of power as well as about effective performance of whatever Constitutional duties public officials may have. I am sure we all three are very concerned with that also.

But, you know, as one looks at the Government of the United States for some time now—and it's not unique to use, but it's that of democratic governments all over the world—the great increase of power is, of course, the power of bureaucracy. I am not one of those who believe that civil servants are evil, or power hungry, or nasty people who need to be controlled. But I do believe that in the very nature of their situation with permanent appointments and where,

as we all know, it is exceedingly difficult to even discipline, let alone dismiss, an employee who is not very efficient, or who is disloyal, or something of the sort. They are in office and they are there for life, practically speaking.

They develop great expertise and they are getting larger and larger as Government gets more and more complex.

I simply cannot imagine how we are going to cope with that problem democratically. We will not start having a big spoils system and rotation in office in the bureaucracy. I wonder how we are going to control that with the Congress, not only whose members have limited service before them but who become lame ducks when they are elected to their last elective term. To expect those people to develop the appropriate expertise to deal with bureaucrats in any kind of limited term of office to be very unlikely.

I would add one more point. In my view, one of the few good things that came out of that whole mess that we call Watergate is the revival and the desirable revival, in my opinion, of the Congress of the United States. I believe it is now doing things, for example, its role in the budgetary process. Ten years ago before that it was helpless and nonexistent. It would deal with a few details here and there, but it had no control over the centrality of the process whatever. Now I think it plays quite a significant role. It may play an ever more significant role.

If we are to take, for example, Senator Muskie, and say, "No, you can't be in office long enough to develop that kind of expertise. Twelve years and out and maybe you would get the sufficient seniority to rise to the chairmanship of that committee only toward the end of the 12 years." But I think this would reduce the Congress, whatever the procedures, back to the state of relative helplessness in the face of the executive and in face of the bureaucracy, in the way it used to be.

Dr. ORNSTEIN. There are bureaucracies and bureaucracies. As a long-time Capitol Hill resident who just moved, I saw every day the encroachment upon my neighborhood of the Congressional bureaucracy. Another thing that worries us is where power within Congress might reside over a period of time and where decisions would continue to be made, if you had a continuous turnover of Congress without anyone serving for a very long period of time?

I served on both House and Senate staffs in the past and saw, at times to my fright, the enormous amount of discretion and power that goes frequently to staffs in the House and Senate. In part this is because members are so busy with a multitude of responsibilities in the number of committee and subcommittee assignments and the variety of things being done. Oftentimes things have to be left to staffs.

If you get to a situation where members are not here very long and don't develop an institutional memory, and don't develop the kind of expertise that is necessary to deal with societal problems, then you may well find that you will have career staffs—

Senator DECONCINI. We have career staffs now, don't you think? They run the Senate and the House of Representatives. They are good solid people, but I think we are already at that point.

The fact that you are going to bring in someone new for 12 years, or whatever the period of time is, with new ideas that is going to

question that staff, it may be more healthy than someone who is comfortable with that staff and continuously relies on them. When you move into a new office you raise a lot of questions because you come with different ideas, and from a different environment, and with a different approach. If you are aggressive you're going to question some of those staff decisions and some of those people.

When you are comfortable with the staff, it seems to me, you have relied on them and you continue to rely on them, and they, in essence, exercise more Government than the elected leaders.

Do you disagree with that?

Dr. MANN. There is a point to that. I think one could reasonably make that argument. The question is whether a new Member of Congress in the House or Senate, knows enough to know where the bodies are buried and to know a policy issue well enough to ask the right kinds of questions of the staff to get the kind of response that is necessary.

It is that same question that can be addressed to the executive branch staffers also.

So, in a sense, yes, the Congressional bureaucracy has grown. It has become an independent force. But I believe to the extent it's checked and made responsible, it has been done by those who have developed Congressional careers and have developed expertise in areas where they can make independent assessments of the kind of information that is passed to them by the staff.

Senator DECONCINI. Dr. Ritt has worked with this a great deal. He is also a professor of political science.

Dr. RITT. I was curious about one point you made with regard to the increased longevity and decline in incumbency. I wonder if there is a particular point beyond which someone would have been around so long, and then gotten out of touch, that eventually they certainly would be eliminated through the electoral process.

It seems to me that when you make the argument that the longer someone is here the more likely they are not to be reelected, it is a question simply of becoming too old to serve, so to speak.

I do know your basic idea does not intuitively make a lot of sense. Most of our experience would suggest that the longer someone has been here, the longer they will be here.

Let me ask you one other question.

With regard to the lame duck argument which comes up continuously, the argument was often made that Presidents would be less powerful, or less capable of achieving policy goals, if they were limited by two terms. Do you think, given the Presidents we have had since the two-term amendment was passed, that the two-term amendment actually limited Presidents in their effectiveness to get things done? Do you think it has checked the power of the executive branch of Government?

Dr. RANNEY. Of course the only clear cases that we have are Eisenhower and Nixon. The Nixon second term we will never know about because of Watergate.

I think that most students of the Eisenhower presidency—and I have in mind here, Fred Greenstein at Princeton, who is in the process of writing a major new book on the Eisenhower administration—

take the position that Eisenhower was substantially less effective in his second term to a considerable degree because his clout with Republican Members of Congress was a good deal less. There was the jockeying, which had already begun, as to who was going to get the nomination in 1960. So in a sense we are only dealing with one case. It's always tricky to generalize from one case. But on the basis of that one case, if Greenstein is correct, then, yes, even a President as popular, and as skilled, and as impressive as Eisenhower, was weaker in his second term than he was in his first. That weakness was significantly related to the fact that everybody knew he would not be eligible to run for reelection.

Dr. MANN. I would like to make one additional point, Senator. It seems to me that ultimately we come to the question of representation and accountability and under what system our elected representatives are likely to be more accountable.

The research that is being done at other levels of Government has suggested that volunteerism associated with high levels of turnover tends to reduce accountability of officials to their constituents. It is that electoral connection, that desire to be returned to office that constituents. I think the experience at lower careers would tend to move away from the kind of accountability that we feel we have under the present system. You may not be satisfied with that.

Senator DECONCINI. What about the argument of the inability of Congress to say no, according to some, to expenditures based on the fact that they want to be reelected? They don't want to say no and that it can't be afforded. There are some good arguments based on the amount of money and the deficit that Congress continues to legislate.

What is your answer to that?

Dr. MANN. It seems to me a powerful campaign issue is now cutting rather than spending. I do a good deal of public opinion research in Congressional districts. I know that it is to the member's advantage to be able to say that they voted against Government programs. It is very much in the air and very attractive politically.

I think we are seeing the reversal here. In the mid-1960s and the late 1960s, the development of the new Federal programs and so on, helped to create a constituency out there which came back to the member for help in dealing with bureaucracy, and that was a good thing. I think that politics have changed dramatically. It's simply no longer true.

I have found very few members campaigning on the basis of "I voted to increase spending across the board."

Dr. ORNSTEIN. Mr. Chairman, I would like to make an additional point.

Moving away from the power of the institution itself and the analogy between the Presidential two-term limit and limits on Congressional terms, Congress is a very different institution. It was set up to have an enormous degree of diversity, diversity geographically, and diversity in many other respects. I find it very useful to have a diversity in terms of outlook, historical outlook. I find it very useful for Congress to have a mix of people who have served in World War II, who have been through the depression, who have served in the Korean war, as well as those who have been through the agonies of

the Viet Nam war, and who have perhaps had their formative years during those periods.

I think it gives a different kind of perspective to Congress. I would hate to see that kind of perspective removed. I would hate to see it removed, particularly following an era in which the internal power structures within Congress have been changed.

It would be different if we were talking about 20 years ago when only the most senior handful of people within Congress had power to determine what Congress would do. It would be different if we were talking about a dozen curmudgeons who chaired all the committees and made all the decisions about all of the subcommittees and all the legislation that went down the pike.

We have a very different situation now. We have freshmen Senators chairing subcommittees. We have a broad range of membership involved in decisions. Under those circumstances, I think having some people around here who served in the Federal Government during the Franklin Roosevelt administration, and in subsequent terms, is very useful, and a very useful perspective for Congress to have when it makes policy.

Senator DECONCINI. You talk about the freedom of the people to choose. That is a persuasive argument, in my mind. We do not want to restrict that, but we want to maintain it. Professor Ranney, you testified on S.J. Res. 1, the direct election of the president, I believe your testimony was in opposition to it, or something along that line. I did not hear it, but I heard about it. How do you rationalize that with freedom? I didn't get a chance to hear that other testimony. Maybe you could explain that.

Dr. RANNEY. Fundamentally, I argued that the people now do select the President of the United States and have for a long time. But it is the people as divided into State groups. The popular election of the President under the Bayh amendment is not really substituting a popular election for some kind of indirect election because, as we all know, the electoral college is a rubber stamp.

My other general feeling about it was that no convincing was made that there is a clear and present danger that the system would result in the election of a minority president. We all, of course, recognize that it could happen theoretically. We all know that the last time that it actually happened was in 1888, so it's not exactly either a clear or pressing danger. If it were a clear danger, and if it were happening fairly frequently, then I would be the first to support the abolition of the electoral college.

But I also think we would pay a price for that. In other words, it seems to me that there are real virtues in dividing the electorate up, as the Founding Fathers wished, into their State segments. I believe that it would do great damage to whatever is left of our political parties if we made State parties, which are, after all, the basis of the national parties, if we made them of little or no significance in the conduct of the Presidential election. We would make that election even more than it is now, strictly an exercise in the national media with candidates tending to campaign out of television studios in New York City and Burbank, Calif.

Senator DECONCINI. Excuse me. Getting back to the choice of freedom of choice of the people, do you think that we actually do exercise it now?

Dr. RANNEY. Yes, we do.

Senator DECONCINI. You mentioned also. Professor Ranney, that we should not fool with our system. Those may not be the words you used, but you were talking about how this shouldn't be done unless there was a clear evil.

Dr. RANNEY. Yes.

Senator DECONCINI. Do you think it is improper to attempt to fine tune or "tinker" with the system that does work well? How evil must it be before we come in with a Constitutional amendment to do something about it?

Dr. RANNEY. As a general rule, I would say that if one can observe something going wrong, something doing damage, and if we can clearly trace a major cause of that particular damage to some defect in the system, then we should change it.

For example, if Congress is incapable of handling the budget, and if it always votes to raise spending, and if log-rolling is the only possible legislative process, then, yes, that is a bad thing.

If we decide that is the empirical fact and it's not getting any better, and if we can clearly connect that with the longevity of Senators and Representatives, and if it is clear that that longevity is the cause of this bad thing, then we certainly ought to move to correct that.

Senator DECONCINI. Do you think you would have to find that connection? Do you think you would have to know what it is that is causing that?

Let me pose to you my quandary. I think you will agree that the public reaction towards Congress going downhill, and that public reaction shows an image of all political officials is not what it was 10 years ago, or even more.

So being in that environment you start searching around. I cannot find the real reason for it I do not know what it is. So this is one possibility. It is just like your response to "Why not try something when you are certain that the image, and the respect, and the confidence in our public officials is going down." I am convinced by the polls and by my own observation that this is true. I cannot tell you what the reason is, or what the connecting point is, or what could cure it.

But, from the first premise I attempt to find something that might improve it. This amendment is one of those things. Maybe it's not going to be the answer.

I would like your response to that.

Dr. RANNEY. As a general stance, Senator, I think you are quite correct. I do think though, if I may say so, you have somewhat misdiagnosed both the nature of the low opinion of Congress and its relationship to unlimited terms.

The fact is that the polling evidence that you were talking about not only shows a declining opinion of Congress, but of every other American institution, including business, labor, the clergy, the military. You name it. They have all declined in popularity. That's point one.

Second, the most recent poll of Louis Harris, shows that right across the board, including Congress, this has bottomed out and now opinion is improving. That's the second point.

The third point is this. I'm sure you are aware of the phenomena that everybody speaks poorly of Congress as an institution, but everyone likes his own individual Congressman. If you ask the same people: "What do you think of Congress?" They would say: "It's a bad institution." Then, "What do you think of Senator DeConcini?" They'll say, "Fine man. He's my Senator. I like him a lot."

This shows up in poll after poll.

I think that what is involved here is the kind of response that people give to a pollster almost as a product of the interview situation. It's kind of fashionable. If you think everything is going fine, and people are honest and things are getting better, then you have the kind of dump, pollyanna attitude that everything is swell, and that shows how stupid you are. After all, you hear the news every night, and you read the papers, and when you go to dinner parties you hear how lousy everything is. You must be some kind of stupid person if you don't think so, too.

One other illustration is this. When people are asked, "What do you think of the general state of the country?" they say "Bad." "Do you think it is going to get worse or better?" They say it is going to get worse. The pollsters ask, "How about you personally, what's your condition?" "Well, it's pretty good." They ask, "What do you think is going to be your future?" "I expect to be better off. The country is going to be worse off 10 years from now, everybody says, but I'm personally going to be better off 10 years from now."

So, I think that a lot of this polling evidence about the low opinion of the Congress really doesn't represent any danger to the institution.

Mr. MANN. Senator, I would like to add two points to that. Congress, as an institution, has seldom been rated high. In fact, if you look over the last 15 or 20 years, you will find, I believe, only two peaks. One was the Great Society days in 1965 and 1966 when all reports coming out in the media were, "Congress passes this and that." There was a great sense of accomplishment that something was getting done.

I'm sure that you could put those ratings up again if everyone in the institution agreed that we ought to pass a lot of legislation, and the media believed it and would report it as such, that it was a good thing. But I do not believe this would be a good thing.

The only other peak was during the Watergate hearings when the Judiciary Committee was on television and people saw how thoughtful, serious men and women contemplated and dealt with a very difficult situation—a political crisis. Suddenly they saw Congress as a body of people dealing with a complex problem.

To the extent that ratings of Congress are lower than other institutions, it simply reflects its complexity. Congress does not speak with one voice. It speaks with many voices. Members are often at odds with one another. It is inevitable, given that, that the public image of the institution would be low.

A contributing factor to that is the tendency of Members to run against the institution. It is well-documented that they go back to

the district and say, "Let me tell you how awful it is back there. We have these antiquated procedures and its a terrible, crummy institution, but I'm doing my best to change it."

In fact, it is a self-fulfilling prophecy. These people believe that it is a terrible institution and their Members assure them it is; however, their Members are terrific. The Members themselves contribute to the low rating.

Dr. ORNSTEIN. Let me add to that a couple of points, Senator.

The original question was: Should we fine tune the system?

There are levels of tuning the system. To us the highest level is the constitutional amendment. It is one thing to talk about tinkering within Congress, to reorganize the committee system, or to televise more proceedings and whatever. That is the kind of thing that all of us would find very easy to support, and, in fact, have worked for many times in the past.

A constitutional amendment is something much more serious. That takes much more thought and much more evidence. It takes a much more compelling need in our view.

Then to add to the point about the low ratings of Congress—as I said at the outset, I tend to believe doing something like this could tend to reinforce the low opinions that people have of Congress. What we would have here is Congress confirming to the public that, "Yes, indeed, we are bad individuals."

We have seen Congress do a lot of things in the last 4 or 5 years to try and combat the low, overall rating. We have seen open meetings and open hearings. We've seen ethics codes. We've seen measures like that. They don't seem to help very much. In part, it may be the same kind of phenomenon. I would suspect we end up going in the opposite direction.

Dr. RITT. I was wondering about Professor Ranney's point that attitudes have bottomed out and that attitudes have been improving. Could it be that part of that change is because, as Professor Ornstein points out, we now have fresher faces in Congress, due, maybe, to retirement? You have argued that the turnover has come about naturally.

Our argument would be that if there is a relationship like that, we would like to institutionalize it. It may be an historical quirk that people are not finding fault this year or next year, but they might start finding fault later. Incumbency might generate rigidity in the system, and we might be stuck with the same problems; however, maybe fresh faces will change the image of Congress. We don't want to leave it up to chance. We would like to make it more institutionalized.

Dr. MANN. It's not chance you're leaving it up to. It's the voters. It's a question of leaving that decision to the voters or imposing some arbitrary rule to insure that there will be a safe degree of turnover. It comes down ultimately to that.

We put our faith in citizens and worry about efforts designed to keep citizens from hurting themselves. Ultimately, you have to have faith in the electorate and be suspicious of efforts to save the people from themselves.

Senator DECONCINI. But you have this problem. Do they really have a choice when you have this great incumbency factor on their

side? Maybe you get back to the fact that you should have Federal financing, or public financing. But it really troubles me that they really don't have a choice. Generally they don't.

Dr. MANN. It's becoming less true in the Senate. There was a fair amount of turnover in the last elections. We might anticipate increasing competition in the Senate. I would certainly welcome that. But again, the way to deal with that problem is to deal with it directly. Take efforts to spur competition. Take efforts to strengthen parties and not to weaken them. It requires some efforts to see that the out party has the resources to field a candidate. Deal with it directly and not arbitrarily. That would be our view.

Dr. RITT. Most of us as political scientists, I think, possibly more than candidates themselves, have a great deal of affection for political parties. I sense in some of your arguments here that there is a notion that parties should be strengthened. I might point out that Prof. Donald Hertzberg is in favor of a limitation. He was unable to attend the hearings but when I asked him why he favored the limitation, he argued that he thought the limitation amendment would kind of stir up the pot. He thought that you would increase the number of candidates and in increasing the candidates you would then get the party more involved in the nominating and recruiting process.

So he saw the two-term limitation as a corollary of his position. It would strengthen the party. Much too much impact is now generated by the incumbency factor. I'm sure you are all familiar with other studies which have shown that party voting has declined and that incumbency as a factor in voter choice has risen, particularly with regard to the Senate.

I wonder if you might have a response to that; the argument that the reform we are proposing might strengthen the political party system generally.

Dr. RANNEY. I guess my view on that would be this. It is an arguable position. I think the weight of the probability is against it although I must say that if I thought that that is what this amendment would do, then I would be a good deal more in favor of it than I am now.

But, it seems to me that all of those things that are operating in the society to downgrade political parties, are what has produced the decline and not the contrary.

If Congress wants to amend the campaign financing laws so that it gives the money to the political parties rather than to individual candidates without regard to parties, and if it wants to repeal the direct primary so as to let parties make nominations the way they used to and the way they do in all other countries in the world, and if it wants to take a series of measures to strengthen political parties, they will improve. Of course, the first thing we will have to do is to convince the people of the United States that political parties are a good thing. That is something I don't think they have ever believed or that anybody except a few crazy academicians like us on both sides of this bench believe. But that being the case, my view is that the amendment would not affect the status of political parties much, one way or the other, because there are so many other powerful forces working against parties.

Dr. ORNSTEIN. I would tend to agree with that. I completely disagree with Professor Herzberg on this point. I think stirring up the pot is not necessarily going to bring about more importance to the party. In fact, we've had a stirred-up pot for the last dozen years or so in the sense that there has been more overt competition at the party level through primaries, North and South. We've had a lot of primary defeats. We have had a lot more candidates going against incumbents in primaries than we had in the earlier points in history, especially in the North.

I don't think this has been particularly good for the party because most of the candidates that have come in have worked against the party apparatus. They have often campaigned against the "party bosses" and this has served to weaken the party. I suspect that the two-term limit might have the same effect. You would have an awful lot of candidates pouring in, none of whom would have any allegiance to the party apparatus or organization and you would be more likely to get people in who have no party ties.

Senator DECONCINI. Gentlemen, I want to thank you very much. Your testimony and willingness to share with us your view has been very helpful to this committee member, at least. I thank you for your time and your willingness to give us your thoughts.

If you do have anything else you would like to add in writing or any way, we would be willing to receive it and the record will be kept open until some time in mid-April.

[The document previously referred to and submitted by Dr. Mann follows:]

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Is There Such a Thing as a Safe Seat?

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What determines the outcomes of elections for the United States House of Representatives? Judging by their behavior and verbal assessments, representatives view their own actions as largely responsible for their electoral fates. It is well known that a considerable portion of the representative's activities are constituency-oriented tasks related to staying elected. Similarly, when a political scientist asks what keeps him elected, the typical congressional respondent gives himself a considerable share of credit. Eighty-five percent of the congressmen interviewed by Stokes and Miller in their study of congressional representation said their personal record was either "quite important" or "very important" to their reelection. By comparison, only forty-six percent gave ratings of "quite important" or "very important" to district partisanship or national issues.¹ The congressman's perception of a responsive constituency may be mere rationalization—in this case the adoption of the psychologically comforting belief that he has controlled his own destiny.² But the corollary belief may be disconcerting: attentive voters can throw their representative out of office if he misbehaves.

A casual inspection of the available evidence may lead one to suspect that congressmen greatly overestimate the difficulty of staying elected. One fact that must be taken into account is that incumbent House members almost always win re-election attempts. For example, between 1954 and 1970 ninety-three percent of all re-election attempts were successful.³ Why incumbents generally win is not fully understood, but their own actions are not necessarily responsible for their victories. Since voters typically vote along party lines in House elections, it is commonly assumed that a major reason why incumbents generally win is that they represent safe "one-party" districts. If this view is correct, incumbent victors would have no particular reason to congratulate themselves for their electoral prowess or to fear future electoral reprisals. Except for

1. Donald E. Stokes and Warren E. Miller, "Party Government and the Saliency of Congress," *Public Opinion Quarterly*, 26 (Winter, 1962), pp. 531-546.

2. On the tendency for winning politicians to congratulate themselves for their victories, see John Kingdon, *Candidates for Office: Beliefs and Strategies* (New York: Random House, 1968).

3. Both primary and general election losses are included in this computation. Seventy-eight percent of the incumbent defeats between 1954 and 1972 occurred in the general election.

those facing difficulty in the primary election, the only electorally threatened congressmen would be a few with politically marginal districts—from which the small number of incumbent losers are drawn. And even congressmen from marginal districts enjoy the leverage of an incumbency advantage: the added votes they obtain by virtue of being the incumbent.⁴

But another reason incumbents generally win may simply be that they are more appealing candidates than their opponents. If House elections are generally won by the candidate with the greater vote appeal (apart from partisan considerations or an incumbency advantage), then the people elected to Congress would be correct in claiming a share of the credit for their own past victories and also in fearing future electoral defeat by a more appealing challenger. To be sure, voters are not very knowledgeable about congressional candidates and (apart from an attraction to the incumbent) vote more on the basis of party labels than direct evaluation of the candidates.⁵ But the minority of voters who do evaluate the candidates can tip the balance in a congressional race if their decisions are sufficiently uniform—in favor of one candidate over his opponent.

Although a congressman's probability of winning his *next* election is generally quite high, his long-term electoral security depends on the more difficult task of winning a *series* of successive elections. This paper attempts to gauge the extent to which House careers are threatened by *eventual* defeat. To do so, two previously ignored bits of data will be examined: (1) the circumstances of the initial victories of sitting congressmen, and (2) the circumstances of the eventual exits of former congressmen. Different assumptions about the relative influence of district partisanship and the candidates themselves on election outcomes yield different expectations of what these data would reveal. If election outcomes are determined by partisan considerations beyond the candidates' control, then election losses would be concentrated among a small group of vulnerable congressmen from marginal districts. As a result, most Congressmen (with safe seats) would survive in the long run. Electoral defeat would be a relatively rare means of exit from the House and defeat of the previous incumbent a relatively rare means of entry. Except in the small number of marginal districts, both exits and entries would stem from an incumbent's retirement or death.

4. Robert S. Erikson, "Malapportionment, Gerrymandering, and Party Fortunes in Congressional Elections," *American Political Science Review*, 66 (December, 1972), pp. 1234-1245; David Mayhew, "Congressional Elections: The Case of the Vanishing Marginals," *Polity*, 4 (Spring, 1974), pp. 295-317.

5. Stokes and Miller, "Party Government and the Saliency of Congress," pp. 531-546.

On the other hand, to the extent that *candidates* influence outcomes, congressmen share equally the threat of electoral defeat and long-term vulnerability *increases*. To see why, consider the situation whereby *each* incumbent has a .93 probability of winning each election he contests. Such a process would be a Markov chain, and the probabilities of long-term re-election success would be compound probabilities.⁶ For example, the probability of contesting four elections in a row without a loss would be only .93⁴ or .75. The probability of eight successive wins would be only .93⁸ or .56. Many incumbents would be thrown out of office by the voters before they leave via retirement and death. Also, a frequent route of entry into Congress would be by the electoral conquest of the previous incumbent rather than succession upon his retirement. The result would be survival of the fittest: many candidates would win congressional office by unseating the incumbent and eventually leave involuntarily when defeated by a new challenger.⁷

I. Electoral Circumstances of Congressional Entries

First, let us examine the electoral circumstances under which representatives get to Congress. For this analysis, the electoral histories of all 435 House members elected in 1972 were traced back to the first victory. (Those who had been defeated earlier and later returned were traced only to their most immediate entry.) For all but the 63 who were first elected from new districts with no previous incumbent, it was possible to classify the representatives according to whether they replaced a member of their own party or a member of the opposition. Entries in 1954 or later were classified further. First victories resulting in a turnover of party control were classified as to whether the new victor had (a) defeated the previous incumbent, or (b) won a seat vacated by the opposition due to retirement or death. Those who replaced a member of their own party were further classified as to whether they had (a) defeated the previous incumbent in a primary election or (b) won a seat vacated by a predecessor from their own party.

6. In a Markov chain process, the probability of changing into a given state (that is, election defeat) is equal for all cases and independent of previous history (that is, the number of prior elections survived). For an elementary introduction to Markov chains, see Otomar J. Bartos, *Simple Models of Group Behavior* (New York: Columbia University Press, 1967).

7. A more detailed version of this argument may be found in Robert S. Erikson, "A Reappraisal of Competition for Congressional Office: How House Careers Begin and End," a paper presented at the Conference on Mathematical Models of Congress, Aspen, Colorado, June, 1974.

Of the 392 House members elected in 1972, 41.1 percent had won their initial victories by taking a seat away from the opposition party. This exact frequency (41.1 percent) is found for both Republicans and Democrats analyzed separately. Excluding the eleven states of the former Confederacy, the frequency is almost one half—46.2 percent. Thus, if it can be assumed that taking a seat away from the opposition requires some skill and effort as a campaigner, initial victories by House members had not always been easy.

Table I shows additional information on the first victories of 1972 winners who first entered in 1954 or later. Less than half (48.8 percent) entered via the easiest route—winning a seat vacated by their own party's incumbent. Of the remainder, 14.9 percent entered by winning a seat vacated by the opposition. Over one-third (36.4) percent entered by defeating the previous incumbent in *either* the primary or the general election. Most, therefore, could ascribe their initial victories to their having successfully overcome unfavorable odds.

On the assumption that the most senior congressmen hold the safest seats, one might expect them to have had the easiest entry circumstances.

Table I Circumstances of First Victory for Congressmen Elected in 1972^a

CIRCUMSTANCES OF FIRST VICTORY	PARTY		YEAR FIRST ELECTED			ALL CASES
	Dem.	Rep.	1954-62	1963-68	1969-72	
<i>Same Party's Incumbent Re- tired or Died</i>	43.4%	55.0%	52.5%	43.6%	50.4%	48.8%
<i>Defeated In- cumbent in Primary Elec- tion</i>	12.1	3.4	12.1	3.6	8.8	8.1
<i>Other Party's Incumbent Re- tired or died</i>	15.0	14.8	8.1	13.6	22.1	14.9
<i>Defeated In- cumbent in General Elec- tion</i>	29.5	26.8	27.3	39.1	18.6	28.3
	100.0%	100.0%	100.0%	99.9%	99.9%	100.1%
N =	(173)	(149)	(99)	(110)	(113)	(322)

^a Excluding 50 Congressmen first elected prior to 1954 and 63 others first elected from "new" districts.

However, this expectation is not supported by the data. For example, the frequency with which the early 1954–1962 entrants had won an opposition seat (35.4 percent) is only slightly lower than the frequency for recent 1969–1972 entrants (40.7 percent). Moreover, entry via electoral conquest of the previous incumbent is least frequent among the most recent entrants. This is not the pattern one would expect if district partisanship were of critical importance.

Table I shows that some differences do exist between the entry circumstances of Democrats and Republicans. Democrats, for example, were more likely to enter by defeating the incumbent in the primary (12.1 percent versus 3.4 percent). This result is explainable by the role of the Democratic primary in the South.

These results give some understanding of why congressmen do not take re-election for granted: in most cases, getting to Congress in the first place was not easy. In the next section it will be shown that staying in Congress is not an easy matter either.

II. Electoral Circumstances of Congressional Exits

We shall now examine the *exits* of the 435 representatives elected in 1952. Fifty-one were still around to win re-election in 1972. For the remainder, the circumstances of their exits from the House were examined. Possible causes of terminations of their House careers are (a) death, (b) retirement, (c) primary election defeat, and (d) general election defeat.

About one-quarter (25.3 percent) of those gone by 1973 left because they eventually lost in a general election. An additional 10.3 percent eventually lost a primary. *Thus, at least one congressman in three eventually is thrown out of office by the voters.* This statistic would seem to suggest that the typical congressman's preoccupation with re-election is in fact a rational concern.⁸

Table II shows the distribution of career endings by party and by victory margin in 1952. Republicans, it can be seen, tended to be more

8. Since those who "retire" often do so only to seek another political office (usually a Senate seat or a governorship), we can also follow these attempted continuations of political careers. Fifty-three of our 1952 representatives eventually quit Congress in order to seek another office; of these, eleven were still in office in 1973, leaving 42 cases to work with. Of these, eighty-three percent eventually lost elections for their next office, most in their first try. Leaving the House to run for another office, therefore, is quite a gamble. With outcomes of post-House career attempts counted, of the 1952 congressmen who left *elected* office by 1973, almost half (46.2 percent) were defeated at the polls.

Table II Exit from House for Members Elected in 1952 by Party and 1952 Vote Margin^a

OUTCOME	60.0%– 100.0% <i>Repub- lican</i>	50.0%– 59.9% <i>Repub- lican</i>	50.0%– 59.9% <i>Democ- ratic</i>	60.0%– 100.0% <i>Democ- ratic</i>	ALL REP.	ALL DEM.
Retirement	55.7%	38.4%	42.4%	49.5%	48.6%	47.0%
Death	18.0	5.8	18.6	22.5	13.0	21.2
Primary Defeat	2.5	2.3	18.6	20.7	2.4	20.0
General Elec- tion Defeat	23.8 <u>100.0%</u>	53.5 <u>100.0%</u>	20.3 <u>99.9%</u>	7.2 <u>99.9%</u>	36.1 <u>100.1%</u>	11.8 <u>100.0%</u>
N =	(122)	(86)	(59)	(111)	(208)	(170)

^aExcluding careers still pending as of the 1972 election.

frequently removed in a general election than Democrats, since the post-1952 national voting trend for Congress favored the Democrat. Democrats, however, were more often thrown out of office by a successful primary challenger. The table also shows that representatives with normally "safe" victory margins in 1952 (60 percent or more of the vote) were least likely to receive an eventual defeat at the polls. But this tendency is not overwhelming: within each party, one quarter of those who won with 60 percent or more of the general election vote were eventually expelled from the House by their constituents. Thus, a big victory margin in one year does not insure future electoral success.

Table III shows the distribution of exit outcomes by the year of the congressman's entry and the year of exit. Those who entered early or exited late were the least likely to leave the House via defeat in a general election but the most likely to be defeated in a primary. It may be observed that high seniority was not a particularly strong guarantee of electoral security. Twenty-five percent of those entering in 1942 or earlier, and over one-third of those who exited in 1965 or later, left the House by being thrown out by the voters.⁹

From the arrangement of the data we cannot tell whether the amount

9. Comparable figures on the causes of attrition among *veteran* House members may be found in Charles S. Bullock III, "House Careerists: Changing Patterns of Longevity and Attrition," *American Political Science Review*, 66 (December, 1972), pp. 1295–1300.

Table III Exits from House for Members Elected in 1952 by Year of Entry and by Year of Exit

OUTCOME	YEAR OF ENTRY			
	1905-42	1943-48	1949-52	1953
Retirement	41.5%	50.5%	51.9%	45.5%
Death	33.0	15.2	9.6	7.6
Defeat in Primary	12.8	9.5	11.4	6.1
Defeat in General Election	12.8	24.8	27.2	40.9
	<u>100.1%</u>	<u>100.0%</u>	<u>100.1%</u>	<u>100.1%</u>
N =	(94)	(105)	(114)	(66)

OUTCOME	YEAR OF EXIT			
	1953-56	1957-60	1961-64	1965-72
Retirement	52.0%	51.9%	41.6%	43.8%
Death	15.7	13.9	16.9	21.3
Defeat in Primary	4.7	4.6	11.2	23.8
Defeat in General Election	27.5	29.6	30.3	11.3
	<u>99.9%</u>	<u>100.0%</u>	<u>100.0%</u>	<u>100.2%</u>
N =	(102)	(108)	(89)	(80)

of the representative's prior service influences his probability of defeat in a given election. For example, the less frequent defeats of senior representatives can be explained by death or retirement rather than by an increase in electoral security. Let us now examine how the probability of losing the *next* election varies with the number of previous terms served. For this analysis, each post-1952 re-election attempt of the 1952 congressmen becomes an observation. For example, the probability of losing after one term is estimated from the frequency with which those elected in 1952 lost in 1954. Representatives first elected in 1952 and seeking re-election in 1956 plus those first elected in 1950 and seeking re-election in 1954 comprise the pool of cases from which the probability of losing a second re-election attempt is estimated. Similarly, the third re-election attempts of those first elected in 1952, 1950, and 1948 are the basis for estimating the probability of losing the third re-election attempt, and so on. This procedure expands the working N by more than a factor of 4, and smoothes out the effects of partisan trends by combining results over several elections.

Figure 1 shows the incumbent candidates' loss rate as a function of previous terms served. Looking first at the curve for election losses in the *general* election only, we see that first-termers lose the most frequently (15 percent), as one would expect. But after the first term the frequency of defeat declines only slightly with the number of terms served. Meanwhile, the frequencies of election losses in the *primaries* clearly *increases* over time. Taking primary and general elections together, the net probability that the congressman will lose the next election tends to go *up* very slightly over time after the first-term hurdle. Application of least squares to the curve for the primary and general elections together (weighting by the N's and deleting the first-term observation) yields a gradual slope of only +.11. That is, the loss frequency increases about one-tenth of one percent with each successive election—or virtually not at all.¹⁰

One model that fits these observations is a Markov chain whereby the observed frequencies represent each congressman's probability of a loss at each career stage. But such a simple model—though appealing—may be unrealistic, for it assumes that each congressman's fate is governed by the identical probability schedule. It could not apply, for example, if each congressman's probability of winning depends on such factors as the safety of his seat for his party and his stable vote appeal. If in fact the fates of different congressmen generally follow different probability schedules, the most probable losers exit early, leaving only those with relatively secure districts in the senior ranks. If senior congressmen represent previously safe districts yet lost almost as frequently as their juniors from less safe seats, the only explanation is that their vote appeal declines over the years. Although this is counter to the notion that voters love to elect representatives with advanced seniority, the alternative explanation would appear to be more radical, that is, that district partisanship and the congressman's electoral history do not matter.¹¹ In any case, however we interpret the data, they show that the congressman has some reason to be concerned about the voters back home. No matter how often they send him to Washington, his chance of winning the next election does not improve.

10. The comparable least squares slope for general elections alone is $-.19$; for primary elections alone it is $+34$.

11. Another possibility is that safe district congressmen become more vulnerable over time while competitive district congressmen become less vulnerable over time. Matthews finds such a process suggested by attrition patterns in Senate data. See Donald R. Matthews, *U.S. Senators and their World* (Chapel Hill: University of North Carolina Press, 1960), chap. 10.

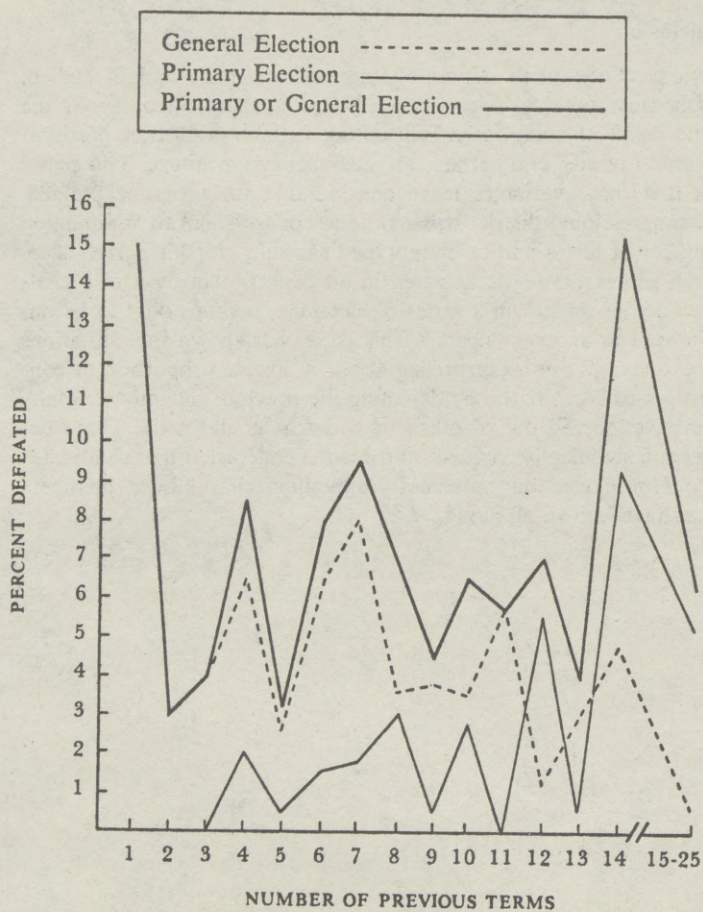


FIGURE 1 Frequency of Election Losses by Incumbent Congressmen as a Function of Number of Terms Served. (N's vary from 43 to 191.)

III. Conclusion

Individual elections for the House of Representatives are seldom studied, perhaps because political scientists presume that their outcomes are the automatic result of some rather unexciting variables—district partisanship, electoral trends, and perhaps an incumbency advantage. This paper suggests that these variables leave considerable variance unexplained. Many a congressional district will send one congressman to Washington for a number of terms and be stereotyped as “safe” for his party. Then, its veteran representative is defeated in an “upset” win by a new challenger, who goes on to win a series of elections, perhaps only to be unseated himself in another “upset.” This paper has shown that situations such as this should not be surprising at all. A sizable proportion of congressmen get to Washington by defeating the previous incumbent. Many are themselves forced out of office by a defeat at the polls. These occurrences are sufficiently frequent to force the conclusion that candidates influence House election outcomes—something that House members appear to have known all along.

Senator DECONCINI. The committee will stand in recess. I want to thank the staff of the subcommittee for their diligence in staying present during all of it and in helping us with all the arrangements. [Whereupon, at 11:15 a.m., the subcommittee recessed, to reconvene at 9 a.m., Thursday, March 16].

HEARING ON S.J. RES. 27 AND S.J. RES. 28—
CONGRESSIONAL TENURE

THURSDAY, MARCH 16, 1978

U.S. SENATE,
SUBCOMMITTEE ON THE CONSTITUTION OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess at 9:15 a.m., in room 6226, Dirksen Senate Office Building, Senator Dennis DeConcini (acting chairman of the subcommittee) presiding.

Present: Senator Scott of Virginia.

Staff present: Nels Ackerson, chief counsel and executive director; Mary K. Jolly, staff director; Linda Rogers-Kingsbury, chief clerk; Romano Romani, legislative assistant to Senator DeConcini; and Leonard Ritt, staff assistant to Senator DeConcini.

Senator DECONCINI (acting chairman). The Subcommittee on the Constitution will come to order.

Again, my thanks to Senator Birch Bayh, chairman of this subcommittee, for his indulgence in letting me chair these hearings. I welcome today, Congressmen Berkley Bedell, Toby Moffett, and Robert Kasten.

Is Congressman Don Frazer here?

Apparently he is not.

Gentlemen, if you would then come to the witness table as a panel, we will hear your testimony.

I want to thank you in advance for taking the time from your busy schedules in the House to come over here to testify before this committee.

We will begin with Congressman Bedell.

**TESTIMONY OF HON. BERKLEY BEDELL, A U.S. REPRESENTATIVE
IN CONGRESS FROM THE STATE OF IOWA**

Mr. BEDELL. Thank you, Senator. First of all, I would ask you not to apologize to take from our time. I don't see how we could testify on anything much more significant than this. This deals with our entire legislative process and how it operates.

I think the subcommittee should be commended for holding these hearings. By definition, congressional term limitation contradicts the basic self-interest of incumbents, and it is a concept that understandably is not easily accepted by many Members. However, I do think that its ramifications extend far beyond the question of how long you or I may remain in Congress. It involves the much more fundamental questions of how competitive our electoral process ac-

tually is and of how effectively the institution of Congress will respond to the increasingly complex problems of modern age.

It is clear to me that there is growing sentiment in my district and across the country that Congress is not performing well, that it is simply not responding to the myriad of problems facing the Nation and the world. After 3 years in the House of Representatives. I am convinced that there is more than just an element of truth to this public perception of the legislative branch—that longevity in office, on balance, impedes maximization of the full potential of the legislative process.

It is my belief that the imposition of a congressional-term limitation, in conjunction with certain other electoral and institutional reforms, would greatly improve this situation by making the political process more democratic and by insuring a steady and orderly turnover of personnel in Congress.

An examination of historical trends underscores the need for a limitation of congressional terms. It is significant to note that in the early days of the Republic, turnover in Congress was relatively high. As late as the 1840s, 40 to 50 percent of the Congress left office at each election. However, since the turn of the century, turnover has declined markedly—down to 16 percent in 1976.

The principal purpose of a term limitation is to assure a regular rotation of membership in the Senate and in the House which, in turn, would keep the Congress exposed to new ideas and alive with new energy. Such rotation would also allow more citizens the opportunity to serve in Congress, and it would reduce the power of seniority within the Senate and the House.

Opponents of the term-limitation concept ask what is wrong with this trend toward longevity in office. Many argue that it is merely indicative of public satisfaction with their elected representatives' efforts. And, beyond that, it is suggested that congressional-term limitation would force many experienced, well-informed Members out of Congress prematurely and that it would infringe upon the voters' right to choose their representatives in Congress.

I understand these concerns, but I think they are overstated. It is clear to me that the power of incumbency is so significant that challengers are placed at a distinct disadvantage in primary and general elections. I believe that in many cases it is this fact, as much as the public's satisfaction with their Representative's performance in office, that accounts for the high rate of reelection of incumbents to Congress.

Furthermore, while I acknowledge that the Congress would lose some good Members by requiring a break in service, I do not believe that any individual is so indispensable or highly qualified that an unfillable void would be created if his tenure were interrupted after 12 or 18 years of service. Such a limitation would allow adequate opportunity for Members to gain legislative expertise and to utilize it, while still insuring a constant flow of new blood into the Congress.

Finally, I do not accept the argument of the opponents of the term-limitation concept that such a proposal would unjustly restrict the right of the American people to determine who they want to represent them in Congress. There is clear precedent for this idea in the 22d amendment which limits Presidential tenure to two terms.

I believe that when viewed in the broader perspective the benefit which our political system would gain from a limitation on congressional terms far outweighs the advantages of the current open-ended system. When considering this issue, it should be understood that longevity in office has detrimental as well as beneficial effects. Service in the Nation's Capital has a tendency to insulate Members from the problems of the "real world," the problems which people living in real communities across the country face every day. There is, in my judgment, a serious danger of "growing stale" in Washington, "Washingtonitis" is a disease which, in varying degrees, affects all Members of Congress and which grows progressively and almost imperceptibly over time.

I believe that, in the final analysis, it serves to diminish the legislative capabilities and potential of Congress, and to erode its inclination and ability to aggressively pursue its oversight responsibilities. A steady influx of new people fresh from the cities, towns, and farms of America, who will approach issues and problems with new perspectives and vitality, would be a strong antidote to congressional lethargy. It would, in my view, serve to enhance the ability of the Congress to deal with contemporary problems.

At this point, I would like to mention that I have introduced congressional-term limitation legislation in the Houses. House Joint Resolution 249, which differs slightly from the two proposals pending in this subcommittee. My proposal would not only limit the length of time a Member of Congress could serve consecutively in the same office, but it would also change the length of a Congressman's term from 2 to 4 years. With this change in a House term, House Joint Resolution 249 would restrict the length of time any individual could serve consecutively in the same office to three terms—12 years for a Congressman and 18 years for a Senator. At the end of such service, a member could run for a different office. However, he could not hold the same office again for at least 2 years. For any Member currently serving in Congress, the term limitation would start to apply only after implementation of the legislation, and service prior to that date and would not be counted.

Before leaving this subject, I would like to comment briefly on the need for a 4-year House term. Such a provision is designed to allow Members of the House to devote greater time and energy to their primary task of legislating. Under the current practice of biennial elections, Congressmen spent a great deal of time and money running for office. I think that this preoccupation with one's reelection prospects constitutes a disruptive force in policymaking and places an unhealthy burden on the electoral process. The establishment of a 4-year term would allow Congressmen to devote greater attention to the complex legislative matters they were elected to deal with. It would also lower total campaign costs and reduce the opportunities for special interest groups to exert pressure on Congressmen through contributions.

In closing, I think that it is important to point out that there is strong support among the American people for a congressional-term limitation. A recent Gallup poll indicated that a solid majority of the public favors this concept. My experience with the residents of the Sixth District of Iowa substantiates this finding.

In fact, in the 94th Congress, I discussed the ideas of limiting the terms of Members of Congress and of changing the length of a Representative's term from 2 to 4 years with my constituents at a series of public meetings in each of my district's 22 counties. At each of these sessions, these proposals were presented for public vote. The final tabulation of these votes showed that over 70 percent of the people participating in these meetings favored the proposed changes.

I believe that this response is indicative of grassroots feeling that the American people want a more active and problem-solving Congress, and I think that congressional-term limitation legislation will serve that objective.

We are all part of a dynamic, evolutionary process—as individuals and as a society. Our institutions are also part of this process, and they should adapt to contemporary realities. This is true of the Federal bureaucracy. It is no less true in the case of the Congress.

Those who are reluctant to tamper with existing institutions or traditional procedures should take counsel from Thomas Jefferson, one of the primary architects of our political system, who said: "I am not an advocate of frequent changes in laws and constitutions, but laws and institutions must go hand-in-hand with the progress of the human mind."

In my judgment, the implementation of a congressional term limitation would encourage more innovative, responsive, and effective Government for the American people. It is a change whose time has come.

Mr. Chairman, I think that it is critically important that we take responsible action to improve the operation and efficacy of Congress, and I believe that this effort should involve a three-pronged offensive. First, steps should be taken to reduce the absolute advantages which incumbents currently enjoy in primary and general elections. Second, internal changes in Senate and House procedures should be implemented which would "democratize" our respective institutions. And third, a limitation on congressional terms would insure a steady and orderly turnover of personnel in Congress should be established. I believe that these changes would enhance both the representative nature of our political system and the quality of decisionmaking in the legislative branch.

Thank you.

Senator DECONCINI. Congressman Bedell, I thank you very much. I would like to pose some questions to you, but let's go ahead and have the other testimony of the other two Congressmen. I think as a panel we might be able to get some information that would be helpful to the subcommittee.

Congressman Moffet, we are pleased to have you. You may proceed.

TESTIMONY OF HON. TOBY MOFFETT, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. MOFFETT. Thank you, Mr. Chairman. I would ask that my statement be included as part of the record.

Senator DECONCINI. Without objection, it is so ordered.

Mr. MOFFETT. I want to say, Senator, before I proceed, that I am very appreciative of your efforts in this area. There are relatively few Senators who seem very interested in this subject. I think history will reflect back on these hearings when we, in fact, do have term limitations, which I think are inevitable. I have a great deal of confidence in you, and I agree with most of what you have said about this matter.

The tying together of term limitations and lengthening of existing terms, I think, is a very important concept. I want my remarks to be viewed as reflective of support of that idea.

Some people say that we should have term limitations because it will attract a better type of person to the Congress. I remember back in my own State of Connecticut heading a citizens' group which did a study of the State legislature and did profiles on State legislators, their records, and their attitudes.

Throughout all of these discussions and interviews with State legislators, there came the question of how we could attract a broader base, how we could attract better people. Certainly we would like to attract a broader base to the Congress, but I do not think our main problem is attracting good people to the Congress. I think we have good people in the Congress. I think we have smart people. I think we have honest people. I think we have people who, in many instances, are much more farsighted than they are given credit for being.

I think what happens is not that that we don't have good people, but that most of us are subjected to a process which wears us down, which erodes principles, which tires out people, and which takes away our sense of urgency and our sense of outrage. That happens to the best of people in the institution.

I think it is a process on which we need to focus, rather than focusing on the people in Congress and the need to remove them.

Likewise, I do not look at the seniority system as an evil, in terms of the people who are at the top. I think the seniority system reflects the fact that the people who have been here the longest are in power. I think they have all too much to say about what happens within the institution.

In the House, particularly after the arrival of those of us who were elected in 1974, there were some changes made with regard to the seniority system and the way the committee chairman are elected, for example. I know there have been some changes in the Senate as well.

But the fact is that the seniority system is still very much alive and very well, and you can still have a single Senator tie up many pieces of legislation on his own. You can still have a situation in which one Member in the House decides what legislation will be taken up, and what will be in the first draft, and who will draft that legislation.

From that time, if you serve on such a committee, you are merely responding, trying to strike and add words. If you are not on the committee, you have even less to say about it.

So, the seniority system, I think—although I do not view it as an evil thing in and of itself—certainly is a reflection of the fact that we need to have more people here and run more people through the

institution. That would give us more of a flow with fewer people staying as long as they do.

The Founding Fathers could not have possibly envisioned the degree of insulation that takes place in this body. They could not have possibly envisioned the ability to lock in a district and to make it "safe" from opposition. I think we have to look at these proposed changes in that light.

I happen to favor the proposal for a 12-year limitation and a 4-year House term; however, I am not absolutely firm on that. I think we can discuss it. Perhaps we should change it.

But I do think a change is necessary.

It is not as though we are not close to our constituents either. I think it is recognized that most of the people who have come here recently in the Senate and the House have devised new and innovative ways of communicating with constituents. Those of us sitting at this table have developed and implemented many of those ideas. We have town meetings and "congressional forums." I have 200 people show up on a Sunday night for a "congressional forum" to talk about issues.

I have toll-free talks, where people can call me directly on a Monday evening here in Washington. We have office hours at shopping centers and in delicatessens. It is happening throughout the House and Senate, and it's a healthy development.

It is not as though we were cut off from face-to-face contact with our constituents. It's not as though we do not know what they are saying.

One of the things that we find they are saying is that they have something that goes beyond a healthy skepticism about government. This is something to which my colleague, Mr. Bedell, is referring. I think a healthy skepticism toward government is a good thing. I do not think that people should be in a position to be vulnerable or gullible to what we have to say without examining it.

But we are well beyond a healthy skepticism in this country right now. We are going more to an anomic class which years ago we found in a ghetto with a poor black or Spanish-speaking people; now you can find a state or anomy or severe alienation in the most affluent suburb in my district or your State where people have absolutely turned off the government. So it is much worse than a healthy skepticism, and I think it is a crisis with which we must deal. I think the most profound kind of reform that we can make to deal with that crisis is one we are discussing today. It would show the public that we are sensitive to the need to refresh our own institution from time to time.

I think with regard to 4-year terms, if people knew how little they are getting and how much more they could get in terms of the development of ideas, and in terms of performance and efficiency in a 4-year term, they would willingly accept the idea.

I do not happen to believe that it is any longer useful to judge Congress by the amount of legislation that it passes. I think that yardstick is outmoded. Some people still use it; the press still tends to use it as a yardstick.

I think a new yardstick is necessary. The extent to which we oversee laws that are already on the books and the extent to which we

focus on making old laws work rather than making new laws are things that ought to be yardsticks. Even that means that there ought to be a great deal of work, at least as much as dotting the i's and crossing the t's in legislation.

So, our workload is enormous, and we all know it. We ought to let the public be aware of this situation to understand what our schedules are like. Not that we are complaining. We understand what an honor it is to serve in this position, but we simply lack the time to really focus on the necessary issues, the important issues. If we are working until 9 or 10 o'clock every night on a week night, and then boarding a plane on Friday and flying back to our districts, and working even harder with even more pressure, then this is something we all know about. It is something with which the public should be very, very familiar. It does not lend itself to a particular effective efficient system.

When you are flying back here on Monday morning after having worked extremely hard the previous week and all through the weekend, and if you are getting ready to go into very serious hearings, it is not efficient.

I know in the House that that happens largely because of the 2-year term. I know for myself that I am spending all too much time at this very moment in planning my next campaign. I do not think I am one of the worst offenders in that regard. I am just doing what I basically have to do in order to be in touch with what is going to be necessary for my reelection.

But I do not think the people are well served by the amount of time that we spend every second year in the House planning for the next campaign.

We had a seminar with Mr. Toffler, the author of "Future Shock," not long ago. Congressman Bedell was there and was prominent in organizing that session. One of the things that Mr. Toffler pointed out is that in this day and age there is so much diversity that you can't find a consensus on anything. Diversity can be very healthy and very nice to see. Everyone has their own idea; but for a Representative to not be able to find a concensus is a problem. It makes it difficult to make progress. And hard as it is to make progress, it is even harder to show any progress, because the public is so skeptical that they do not necessarily believe the Government has made progress even when it has made it.

That factor, when combined with the 2-year term, means that a lot of imagery is thrown to the public by many people in public office. It is unreasonable to expect that someone would have done all the things that they would like to have done, and the public would like to see them do, in a 2-year period.

So I think the public would be better served by elections every 4 years.

President Truman recognized it. President Johnson recognized it. President Truman, as I recall, was also in favor of a 12-year limit. But much more important than Presidents having favored this, the public at the moment appears to favor a limitation on terms, according to the Gallup Poll. I think the election of so many new faces in the past few years is a reflection of that as well. They want to get

some of the people out who have, in the public's eyes, stayed here too long.

This hearing presents an excellent opportunity. But what I think is still to be done is for all of us who believe strongly in this to begin to organize following these hearings, and begin to have meetings of our own and meetings with the Foundation for the Study of Presidential and Congressional Terms, and the League of Women Voters, and Common Cause as well as lobbying groups and peoples of both parties who believe that this is important. I think there is no question that we can build a ground swell of support for this idea. We might not make it this year or next, but I think that we will look back and say that at least in 1978, a Senator held some hearings and some Members of the House felt it was important to support his efforts. I think we will find that the public will respond very affirmatively to an organizing effort in this regard, and that we can achieve their support.

I thank you for giving us this opportunity to talk about it.

Senator DeCONCINI. Congressman, I thank you very much. That is an enlightened and provocative discussion of the matter. I want to return to the 4-year term. I happen to support that. I will ask you some questions about it as to how you feel about that.

[The prepared statement of the Hon. Toby Moffett follows:]

PREPARED STATEMENT OF HON. TOBY MOFFETT

Senator DeConcini, Members of this distinguished Subcommittee: I want first to thank you for this opportunity to testify on what I consider a most important matter: limiting the number of years a U.S. Representative or Senator can remain in office.

I hasten to add that the issue of term limitation is, in my estimation, inextricably intertwined with a much-needed change in the actual length of a term in the U.S. House of Representatives. For reasons which I shall explain shortly, the two-year Congressional term impedes the national legislature, in terms of concentrating on the nation's pressing business.

As you no doubt realize, the issue of limiting terms is hardly a new notion. To say that it is an 'idea whose time has come' would be a gross understatement of the facts. Term limitation is an idea whose time is long overdue.

The advantages to term limitations in both the House and Senate are many. I suspect all of us here today are consciously aware of the inexorable 'war of attrition' in this institution.

Legislators lose that crucial 'sense of urgency' that led them to run for office in the first place. They become insulated against the everyday woes of citizens. Human misery, starvation, deprivation, environmental decay, potential nuclear destruction: These become mere words, not genuine conditions.

The infusion of fresh blood in this institution can only serve to enhance the aura of creativity, of innovativeness, and of new perspectives so sorely needed today.

Contrary to popular belief—as fostered in the media—the so-called Watergate Class of 1974, of which I am a member, did not destroy the seniority system in the House. Seniority, as we all know, is alive and well, along with its attendant fiefdoms, dominance over legislative priorities, and control over staff and funding in committees. One Senator or one Representative can tie up legislation for months—can, in fact, singlehandedly kill proposals which a majority of his or her committee may favor. A limit on terms would help restrict certain abuses in the committee process.

What about public reaction? It's worth noting that a Gallup poll in December of last year found that a solid sixty percent of those interviewed favor a law to limit terms to a maximum of twelve years in office. Parenthetically, it should also be noted that, in the case of the Senate, that figure is up sharply from the forty-eight percent registered in 1971.

As California political scientist Morris P. Fiorina has documented in his recent book, *Congress: Keystone of the Washington Establishment*, the majority of Congress is elected from relatively 'safe' districts. Fiorina also indicates that the clear trend over the past seventy years has been in favor of reelection of incumbents. With the possible exception of the last four years, the trend has been to increase, not decrease, the number of so-called 'safe' districts. The choice that confronts the voter, for a variety of reasons such as perquisites of office, is weighed heavily in favor of the incumbent.

This country's Founding Fathers devised a remarkable tool for self-government. They, of course, made specific provisions for amending the Constitution, although it is evident that the process is not easily accomplished—and for good reason.

Nevertheless, the Founding Fathers could not have envisioned the degree of insulation that becomes all too pervasive in the Congress; nor could they have anticipated the remarkable ability to lock-in a Congressional District or an entire state.

We know today that both the insulation of a Senator or a Representative, along with the creation of a majority of 'safe' districts, is a powerful and pervasive reality.

The one reform that would, in my opinion, do more than anything else for this government, in terms of giving more opportunity for people to serve, and in terms of ensuring a more aggressive and a more accountable Congress, is to amend the Constitution to limit tenure in office. A twelve-year limit, for example, would reinvigorate the Congress and perhaps even restore public trust, reversing the dramatically low ratings for this particular institution in the eyes of the public.

There is precedent for term limitation. The 22nd Amendment to the Constitution specifically limits the President to two terms in office. Twenty-seven individual states limit governors to one or two terms. Besides my colleagues who are testifying here with me today, a number of prominent Americans—including former President Harry S. Truman—have suggested a Congressional limit on terms. Literally dozens of resolutions have been introduced in the Congress to amend those sections of the Constitution that delineate the election process for Senators and Representatives.

I have been discussing this issue with residents in my own Congressional District in Connecticut. At my Congressional 'town meetings', 'open office hours', and similarly public sessions which I hold regularly, I have faced relatively little opposition to the idea of a limit on how long a Member may serve; in fact, I have found a sizable degree of support for this concept.

Perhaps part of the reason is a growing disinterest and distrust of government in general. Along with many of my own constituents, I share what I consider to be a healthy skepticism toward government, and what it can and cannot accomplish. But when that skepticism turns to outright cynicism, we face a very real threat of a state of alienation beyond our worst fears. The creation of an alienated, isolated, anomic class within America seems to be a very real and a very dangerous development.

I do not mean to suggest that a Constitutional Amendment will halt this trend; I do, however, feel that it would be a first step in the right direction.

Along with a term limitation, it is imperative that the two-year Congressional election be eliminated, and replaced by a four-year term in the House. This could be accomplished either by abolishing midterm elections, or instituting a staggered four-year term.

One of my greatest frustrations is the constant and consistent need to "campaign". Perhaps Professor James MacGregor Burns, one of the nation's foremost political scientists, best expressed what he called the "positive values" of a four-year House term: "A four-year term," said Professor Burns, "would enable Representatives to dig into their work in Washington before being compelled to return home for several months of hand-shaking. A four-year term would * * * make for more Executive-Legislative unity, and more party responsibility."

Professor Burns also points out that midterm elections historically "have little impact on policy and program in the House. The structure of power is almost impervious to the coming and going of a few freshman members. The great majority of Representatives represent essentially one-party districts. The easy coalition between veterans survives even midterm 'landslides' such as those of 1958 and 1966."

His views are indirectly reinforced by the traditionally small turnout at the polls for midterm elections.

President Truman, it should be noted, favored a four-year term, as well as a twelve-year term limitation. President Eisenhower leaned toward a four-year term for House Members. In 1966, then-President Johnson urged Congress to amend the Constitution and allow congruent Presidential-Representative terms.

It has been suggested that we need to develop 'the right formula' to attract good people into government. Personally, I do not adhere to that view—We already have many, many good people, both in the House and the Senate. What concerns me is what transpires *after* they arrive in Washington. It is the overall process to which we must direct our attention.

Mr. Chairman, I strongly favor increased Congressional oversight responsibilities. My own efforts are generally focused on making sure that laws already on the books are working, rather than making more and more new laws. There is clearly a trend toward less lawmaking. But the work load of legislators is still increasing. The system currently does not permit one to focus on these matters. Nor does it permit the optimum in constituent service. The time, effort, and money now devoted to campaigning every two years could be better spent in the pursuit of substantive policymaking and closer examination of how the laws are—or are not—working.

That is what Congress is supposed to be about.

Again, I want to thank you for this opportunity to express my views. I'll be happy to respond to any questions you may have regarding my comments today.

Senator DeCONCINI. Congressman Kasten, would you please proceed?

TESTIMONY OF HON. ROBERT W. KASTEN, JR., A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. KASTEN. Mr. Chairman, I am pleased to join my distinguished colleagues in appearing before your subcommittee this morning. I would like to add my support for your efforts, not only for holding these hearings, but for speaking out on this issue which I think is one of the most crucial issues that we are facing today. It is really broader than so many of the issues that we deal with on a day-to-day basis.

As Victor Hugo once said: "There is one thing stronger than all the armies in the world, and that is an idea whose time has come." The subject of limiting the terms of congressional officeholders has long been an interest of mine, and I am delighted that you have chosen to begin congressional action by the calling of these hearings.

Last year I introduced my own version of a constitutional amendment which would limit the terms of Congressmen and Senators. My proposal would limit the terms of Congressmen to six 2-year terms, or 12 years, and would limit the terms of Senators to two 6-year terms, or 12 years. Like Toby and Berkley as well, I am not as concerned about the number of years but rather the principle of term limitation. I hope we can come to a consensus as to the specifics of the proposal.

When our Founding Fathers met in Philadelphia to draft the Constitution which would serve the American people, they accomplished a work the majesty of which is as sharp and clear today as it was in 1787. They provided the foundation on which to build a Nation, and within that foundation they provided the structure to adjust and fine-tune the system to account for changing circumstances and conditions.

The document they prepared has served us well with relatively few changes having been made to its basic format in the last 202

years. As a Nation, however, we have not been reluctant to change when change is necessary. I think the time has come to make the simple, basic change of limiting the terms of those whom we elect to the Congress of the United States. Indeed, I think our efforts would be applauded by our Founding Fathers, for by limiting terms, we would encourage a return to the citizen-statesman legislator who served us so well in those early, turbulent years of our history.

Members of the Senate have no doubt heard many times of the same complaints from their constituents as have we in the House. Congress has not been performing its job very well because it is not effectively responding to the many problems facing our Nation today.

Our constituents complain, as do we, about the entrenched, unresponsive Federal bureaucracy. Yet, the same verbal assaults that we apply with such fervor to the bureaucracy can apply as well to Congress. We are just as eager to perpetuate an entrenched, institutionalized, legislature as are the bureaucrats whose agencies we regularly attack.

The gulf between the people and their Government continues to grow, and we must find a way to bridge that gap before it is too late. The structural change which we are proposing—limitation of terms—would be the bridge. No Member of Congress would serve in perpetuity, and every Member would eventually return to the world from which he or she came.

By constitutional limitation, we would encourage a steady and orderly turnover in the membership of both the House and Senate which would keep Congress alive with fresh new ideas and revived energy. A steady influx of new people from all walks of life—not just the professional politicians—would have a better chance to compete for elected office and bring their new perspective and vitality to bear on the problems which have, to date, proved insolvable by a Congress locked in rigid tradition and lethargy.

Since coming to Washington in 1975, I have become aware of the extent to which Congress can isolate itself from the concerns of its constituents. It does not happen by conscious design, but rather by the demands of a full-time, professional legislature. Congress is almost always in session. Demands on a Member's time, and indeed our own code of ethics, make it nearly impossible to continue working in our former professions. Many Congressmen became permanent residents of Washington, D.C., and begin to view their homes in their districts as temporary, weekend respites.

The longer they are here, the more complete the transition becomes. It is that transition we must guard against. Congressmen should not be career legislators; nor should they make a career of the legislature. Members should view themselves as citizens temporarily on leave to their Government—not as permanent fixtures of Washington, D.C., which is so distant, both in miles and in attitudes—from most of the States and districts we represent. The psychological benefits of knowing that we are here for a limited time and will return to the place from which we came can only heighten our resolve to do the best job possible during the time we are privileged to serve.

Some argue with great conviction that our present limitless system allows the voters to make the choice of how long a Member

should stay in office. At one time, I would have agreed with their arguments. However, recent history refutes its success.

The present system, with all the 20th century communications advantages of incumbency, actually fosters and perpetuates the professional politician. In the early years of our nationhood there was a regular turnover of citizen legislators. Even during the 20th century, 40 to 50 percent of congressional seats changed hands in each election. But, since 1900, turnover has dropped dramatically—down to 16 percent. And since World War II, 93 percent of incumbents seeking reelection have been returned to Congress.

By limiting the terms of individual Members we are, in effect, opening the doors of Congress to those who feel that Washington is a closed society for the political elite of the Nation. With offices being vacated in an orderly, reliable fashion, many more people will have the opportunity to trade private life for public service, and yet never be so far from public life to forget the people they are elected to serve.

Support for limited terms is growing, and I think all the Members of the panel have referred to this. More and more members are endorsing the idea. A new organization has been formed to stimulate a national debate on the issue—the Foundation for the Study of Presidential and Congressional Terms. And, most significant, a recent Gallup poll found that a solid majority of American voters—60 percent—now favor limiting Congressmen and Senators to a maximum of 12 years in office.

I applaud the efforts of this subcommittee, and I hope that you will see fit to report a constitutional amendment for consideration this year. Your efforts will not go unheeded by an electorate that is eager to establish a dialog with the people they send to Washington.

Thank you.

Senator DECONCINI. Thank you very much.

If you don't mind, I would like to pursue a little bit with all of you jointly this 4-year House term. I think it is a good idea.

First of all, what protection—and maybe there shouldn't be any—but what protection is available in your concept of a 4-year term to prevent the House Member from running against their colleagues in the Senate which is a realistic concern of the Senator, I am sure, who would be concerned during the middle of your House term? Has that been given any thought?

Mr. BEDELL. Yes, it has, Senator. My bill would require that a House Member, if he wished to run for the Senate on his off year, would have to resign from the House in order to run for the Senate. So he would not be able—

Senator DECONCINI. To hold his House seat if he lost the Senate race?

Mr. BEDELL. Yes. My proposal will also alternate the House elections so you would have it every two years. The purpose of that is to give the electorate an opportunity, if they are greatly disturbed over the actions they are seeing in the House, to voice that opportunity every 2 years without everyone having to run every 2 years.

Senator DECONCINI. Was any thought given to a 3-year term? I'm talking about the whole House in 3-year terms.

Mr. BEDELL. Not by me.

Senator DECONCINI. I see.

Mr. BEDELL. I think there would be some problems in that State elections, many of them, are at 2-year intervals. It would seem to me that that would throw a congressional election all by itself—in many of our States.

Senator DECONCINI. I agree with that.

Let me ask you this. From the strategy of success of a constitutional amendment, are you really serious? Do you think we can conjure up the needed support? Do you think we can get this through this chamber or your chamber? If not, what alternatives do you suggest?

Mr. MOFFETT. I have no illusions about the difficulty. But I have no doubt that, if organized properly—and it would have to be an organized campaign, and I say that in the best sense of the word “campaign”—it would be very difficult for Representatives to oppose this because of the tremendous support that it would have publicly in their own districts. For example, I have found my own constituents to feel that the idea is an important reform. I see this in numerous town meetings I hold. I have found it to be true in many States around the country. I think it is something, as I indicated earlier, that cuts across lines of ideology, and party, and region.

It would have to be organized properly. We would have to have the help of some of the groups I mentioned.

For example, I spoke to a League of Women Voters group in one fairly large town in Connecticut. They then passed a resolution putting this at the top of their agenda. It is now going before the State League of Women Voters as a priority, and I think they will adopt it. That could be done nationally and with a significant impact.

Senator DECONCINI. It would go without saying that we would need to bring those issues before candidates who are running for the House and Senate in an attempt to get them committed, or at least to talk positively in favor of that type of legislation.

Mr. MOFFETT. Yes. Perhaps I should find a better way to put it, but for the moment I would say this: In a sense, we are doing people a favor to a certain extent by limiting terms. It just becomes, as I see it, very difficult to leave this place, I think we all know that.

I think it has to be an arbitrary limit that does it. I think we are doing everyone a favor by adopting this reform. More and more Representatives, I think, are coming to that view. Certainly it is not a majority, but more and more are reaching this conclusion.

Mr. KASTEN. I would like to echo what Toby said. I recognize the problem, but I am optimistic about the possibility of enacting some kind of legislation to limit terms within the next 4 or 6 years.

I would guess that among those of us who have been elected in the last 4 years, both in the Senate and the House, support for this concept has got to be three to one or maybe even four to one both among Republicans and Democrats.

Senator DECONCINI. In favor of it?

Mr. KASTEN. In favor of some kind of effort to limit terms.

It's an issue which is growing in terms of public awareness. It is an issue that is clearly bipartisan. While I am the only Republican in

the room at the moment, there are many Republicans who support this. We have Harry Truman and Lyndon Johnson and people of all parties working together. We can solve some of the political problems by grandfathering in sitting legislators. In other words, if you've been here for 12 years you wouldn't have to vote yourself out of office. It means that starting in 1980 or 1982, whenever this takes effect, you then will serve for 12 years. But those people who are elected in 1980 or 1982 will have only 12 years to serve as well. This will take the pressure completely off the person who has served honorably for a number of years and doesn't want to leave office. It will give him a chance to serve 12 more years, and at the same time gives him a chance to respond to the pressures which, hopefully, will be developing in his congressional district or in his State, to support this. In other words, he can have the best of both worlds.

Senator DECONCINI. How does this strike you? How about an absolute grandfather clause which means that when he is elected, that would not apply to him?

Mr. KASTEN. I think we must do that.

Senator DECONCINI. We are talking about having the 12 years begin whenever it becomes effective, is that right?

What about not having any time apply to those who are already in office? What's your observation on that?

Mr. KASTEN. I would prefer we had the 12 years apply to all Members whether they are sitting Members or those who are serving for the first time. I think the concept should take place for everyone and at one moment in time, we would know that the entire group would turn over 12 years from then or some time earlier.

Senator DECONCINI. Mr. Bedell?

Mr. BEDELL. I absolutely agree. I don't see how we can say that we are a privileged group compared to other people.

But I would also for a moment like to address your other question. First of all, I have seen any number of things happen around here that I did not think were likely to happen. So, it seems to me that the question is not whether you can win this year or not but whether this issue should be addressed. I think we have a responsibility. If we think we are right in regard to this issue, I think we have a responsibility to bring it up and require that the issue be addressed and that there be debate on the issue.

If we do not get it this year, then there is another year. But, I see this as something that is vitally important. That is one of the reasons I think that you should be highly commended for holding these hearings.

Senator DECONCINI. Both Senator Danforth's approach and my resolution has a grandfather clause to put at ease any of the Senators here, or Members of the House who have been here a long time who would want to serve longer, and it would give them the ability to vote for this if they could see fit to do it without injuring their own political desire. Maybe it is unwise to even address that problem. Maybe we shouldn't do that. That's why I asked that question.

Mr. BEDELL. You have to assert your beliefs. If I were in your position, I would feel that if you believe that this is something that needs to be done, then it seems to me it should be done for everyone equally.

If they amend it in some way and can't change that, then that is something else. But I do not believe we should make concessions that we do not believe in in order for pragmatic politics to try to get something accomplished.

Senator DECONCINI. That is exactly why it is in my resolution. It's a practical reality of trying to foresee the big objection in trying to get the principle started even though it might be a long time before we would get it.

Mr. Bedell, yours is 18 years and the other two have the 12-year limit, is that right?

Mr. Moffett, yours is 18 years?

Mr. MOFFETT. I have not submitted a bill myself, but I support a 12-year limit and a 4-year House term. I am flexible though.

Senator DECONCINI. I am, too. I wonder if there is some way to come to some conclusion that we can all agree with. I'm talking about the term "limit." I'm flexible. I think the principle is important.

Mr. BEDELL. First of all, I have no strong feeling, but you should understand that mine is 12 years in the House and there would be three terms for either House or Senate. But I could really care less whether it's 12 or 18 years. I just think it is important that we get some type of limitation in this area.

Senator DECONCINI. None of you would have any trouble supporting a set term no matter what? Or within the range of 12 years?

Mr. KASTEN. I would like to reiterate the reasons for my optimism. Of course, the first step is to secure passage of the amendment by the Congress. I think the day we did that, the amendment would fly because State legislators have a personal, selfish interest in this issue. Also there is a strong feeling of support in the communities. I cannot imagine an amendment not being ratified within a matter of months.

So, the fight is right here among us. The challenge is right here. Once we win that battle—and that is why this hearing today is so important—it would just go like fire. It is an idea whose time has come. There are almost no reasons for people in the State legislatures to stand up in opposition to this.

Senator DECONCINI. If we cannot win that battle, or if it is obvious that it is going to take a long time, what do you think about approaching it from the State level and having them pass a constitutional resolution? I understand the Constitution can be amended in that manner. I am talking about a constitutional convention that could be called. Do you think that is more difficult?

Mr. KASTEN. Yes, I think it is more difficult. I think that at that point you are putting the cart before the horse. You would have then a State legislature being accused of being self-serving or being selfish by trying somehow or other to influence the seniority, that is, to influence the time in office of the Congressmen and Senators.

I also think that the interest in this—a constitutional amendment—can be most effectively started from the Congress from Washington.

Any effort being made at the State level should be applauded. We want to do as much as we can with student groups as well as other groups including State legislative groups and maybe a conference of legislative leaders.

In my own State of Wisconsin there is an effort being made to limit the terms of State legislators in the State assembly and the State senate. There is a parallel effort going on, but that does not have the same kind of support. Frankly, it does not have as much interest on my part because the State legislatures are in many cases still functioning with part-time legislators who are in closer touch with their constituencies. I think that the problem we are trying to solve is not as great at the State level as it is at the Federal level.

Mr. BEDELL. I think it would be a shame for that to happen. As Mr. Moffett articulated so well, we have a problem with credibility with the Congress. We should bite the bullet and make the reforms needed, and I think it would look bad if the States are saying, "Look, you folks have to do this to yourselves in order to straighten things out."

Senator DECONCINI. What troubles me is human nature, trying to get the momentum in Congress. I see human nature reacting better at the State level. Take an old Senator or a young Senator at the State, or the House of Representatives there, and he could see that this would be advantageous for his political future. He could see that it would be advantageous for his party as well. If there is some limitation, he might advance it on the State level because he might have an opportunity to serve. That's the reason I have kind of given that some thought. Maybe it should be worked in both areas.

I agree with you, Mr. Bedell, that if it does come from the State, it's another slap in the face of Congress not being able to do what it should be doing.

Mr. MOFFETT. Mr. Chairman, I think in at least one sense, it must come from the States: I think it would be unwise for us to expect this to happen because of our own beliefs and our own influence and that of our colleagues. It must come from the States and localities in the sense of being organized at the grassroots level and being done well. I do not think it is the kind of thing that will fly on its own merits in the Congress of the United States. The pressure really has to be brought to bear there, and it will be up to citizens and their groups and representatives to do that.

I was going to speak to the issue of the hypocrisy. I think Mr. Bedell spoke about this. That is the hypocrisy that would be reflected were this institution to stonewall it on limiting terms.

We are all too often put into the position of being portrayed as an institution that wants exceptions for itself. Most recently there have been stories sparked by the Senator from Ohio's hearing, Senator Glenn, I believe, on equal opportunity and how the Congress wants to be exempt from equal opportunity laws.

There are frequently stories—some of them, I think, exaggerated—but nonetheless stories that become perceptual realities for the average person, about how the Congress wants agencies to stop wasting money, but does not stop wasting money itself.

There are stories about the hypocrisy of not wanting television in the Chamber.

Now there is a great trend sweeping our body, and perhaps yours, for sunset laws. It seems to me to be a contradiction, if we want sunset laws on everything except ourselves. The same principles that

we espouse and advocate as being reasons for sunset laws, it seems to me are reasons for limiting terms.

Senator DECONCINI. That's a good point.

Mr. Bedell?

Mr. BEDELL. Let me mention one thing with regard to the 4-year term. It appears to me that more and more, as we get into the congressional elections, that the whole object is to win and nothing else matters. One of the ways to win is to destroy the credibility of your opponent. It appears to me that that tends to be the major way that challengers have to get at the incumbent.

When they do that they help to destroy the credibility of this institution because we are representatives of the institution.

I seems to me therefore, that if we could have 4-year terms, then we would have, at least, done something with regard to public debate that would help improve the image of this institution.

Senator DECONCINI. If it's staggered, as you suggest, you have half of the House running and a third of the Senate running against Congress, which most of all of us do now. We talk about how it's so bad that we're going to change it or we are going to make some real contributions. Do you think that would really have that much impact?

Mr. BEDELL. Half of the electorate would be exposed to that as compared to the total elected every 2 years.

Senator DECONCINI. I agree that it would be better.

Let me go into one other aspect, if I may. I would like to have your thoughts on this.

The argument is about new infusion of new legislators, whether old or young. That seems to be happening anyway. Certainly it's happening in the House recently and in the Senate in the last election. We had 18 new Senators. I think only one retired.

What is your observation as to the argument saying, "Well, you're already getting this infusion by the fact of a bigger turnover"?

Mr. MOFFETT. I think it is cyclical. You had, for a variety of reasons, some people who had been here for a long time who are now almost coincidentally leaving at the same time. It is important to note, as you have, that we also have large numbers of newer, and in many cases, younger Members. I think without a limitation on terms, there is every reason to expect that many years from now you are going to be confronted by this same group of people, of those who are here now, having been here too long. I do not see any reason why it would be any different.

Maybe to some extent the so-called new breed is a little different and does not feel that they need to stay for 30 or 40 years. But I am not absolutely sure that that is true.

Mr. BEDELL. I think the new Members who have come in here are pretty good politicians. Of our class of 75, there are only two who were not reelected. I think that is partly because we recognize that you get back and serve the people and then do all the things they need to do to be reelected. I think we did very well. I think it is only indicative that if you think you've got troubles now, wait until some of the new people get up into that situation.

The problem I see is this. I know of no position where it is as difficult to change a stand as that for public servant in the political

sphere. I think part of our trouble with the difficulties in trying to adapt to the changes that have come in our society comes from the fact that when we once make a public stand and go back and say we have changed our mind, they think either we are wishy-washy and cannot be depended upon or we are not trustworthy, and we lied to them. That is generally not true so much, but I think that is a lot of the trouble we face in whole military posture. I think wars have changed completely with the advent of the nuclear bomb. I think the world has changed.

But once somebody made a commitment, by gosh, we are going to be the strongest of any Nation, and we are going to be the policemen of the world. It is very difficult for that person to change. Certainly the world has changed since the time of Hitler, but that's one example.

Unless we make it more possible for this institution to change with our rapidly changing world, I think everybody agrees that the world is changing more and more rapidly, but I think we are going to have more and more difficulty. I think we face greater difficulties in the future because I think incumbency is going to be a greater and greater asset as we find new people who are able to use the advantages of incumbency.

Senator DECONCINI. Thank you.

Congressman KASTEN?

Congressman KASTEN. Despite the fact that we have the large numbers of new people, I think it's important that we, in fact, pass the law, which means that we will have an influx of people no matter how professional or how competent the politicians who have been elected in the last couple of years have been or are.

I think that you can argue, although this panel might not be representative, that there were an awful lot of people elected in 1974 and 1976 who could become, or maybe even are, career politicians. These are people who are relatively younger but who were preparing themselves for one job and that was to run for office and to win elections. They wanted to do well in the media, and to know how to use the 6 o'clock and 10 o'clock news, and to know how to talk in 30- and 45-second segments.

This group of people could very easily be the next problem. Right now we are running against Congress because that is one way to get elected. With the computers and all the other tools that are at our disposal, I think there is a strong argument that could be made that this group of people could be more entrenched than the group we have been in the process of replacing.

The other point that I would like to make is this. I feel that if people know that there is going to be a limit, like 12 years, that it would automatically encourage all people from different walks of life to participate in the process and to come in and serve their country and go back out. There is a little bit of that going on in the executive branch. People do go in and serve, and then go out. There is very little of that happening, however, in the legislative branch. I think that if we could get that kind of tradition in the legislative branch as well as the executive branch, then it would be to the benefit of our political system.

Senator DECONCINI. I want to thank you very much. Do you, any of you, want to make any other statements?

If not, I greatly appreciate your coming. The record will remain open until April if you want to submit anything further, and I welcome your contacting my office or Senator Danforth's office regarding any other matters that you would like to have put in the record.

Our next witness is Dr. Herbert Garfinkel, provost and vice chancellor for academic affairs, University of Nebraska at Omaha.

Dr. Garfinkel, I want to thank you very much for coming in and sharing with us your ideas on this matter. Your entire statement will appear in the record and if you care to highlight it, you may do that or as you see fit.

TESTIMONY OF DR. HERBERT GARFINKEL, PROVOST AND VICE CHANCELLOR FOR ACADEMIC AFFAIRS, UNIVERSITY OF NEBRASKA AT OMAHA

Dr. GARFINKEL. I am the one who is grateful to you for the invitation. It is an honor to be here. It's evidence of the spirit of our democratic society that I should be invited by your staff, although I am in opposition to your proposal.

My name is Herbert Garfinkel, and I am provost and vice chancellor for academic affairs at the University of Nebraska at Omaha. The university administration, of course, takes no position with respect to the matter before you. I am appearing here in my other professional role as a professor of political science.

It is a great honor to address a committee of the U.S. Senate, and particularly on a constitutional issue. As we approach the bicentennial of the Philadelphia Convention of 1787, from which the Constitution of the United States derives, we will carry forward our 1976 celebration of a successful revolution. In 1987 we will commemorate the bicentennial of the equally successfully founding of a democratic republic. It is more than mere veneration for the Founding Fathers which will be ceremonialized. We will celebrate that rarity in human history, a successful political system. It has endured for almost 200 years under the same fundamental instrument of government by which the framers constituted our democracy.

My view of the constitutional amendment which you are considering rests upon two basic principles that I would hope the Members of this committee might share and approve: first, a democratic principle; and second, a pragmatic principle. Both are deeply and firmly rooted in the American political tradition.

The democratic principle reflects the Founding Fathers' confidence in the long-run good sense of the American people. Over time, a free people can be counted on to "throw the rascal out." They have done so in the past, and they will do so in the future. Abraham Lincoln understood full well the foolishness which can betray us in the short run, but he believed, as did the Founding Fathers, that the bulk of the people can be fooled for a only a limited time. It is indeed true that the framers of the Constitution had sensible concerns as to the historic difficulties which beset popular forms of government. However, they carefully sought to devise remedies for what Mr. Madison

labeled the "inconvenience of democracy," but in ways consistent with democratic principles.

The proposed amendment is a counterproductive means, among other reasons, because it would limit the application of the popular principle—that of letting the people decide. In any event, there seems to be no compelling reason to distrust the choice of the people as exercised under the long-standing provisions of the Constitution. I respectfully suggest that if citizens want to continue to return their Senator or Representative, they should have the right to make that choice for themselves.

Perhaps the most distinctively American philosophical position from which to evaluate this proposed constitutional amendment is a pragmatic one. Whatever conclusions purely theoretical speculations might suggest, most Americans ask simply, and rightly: "does it work?" I believe that a fair appraisal of the operation of the Constitution over the years reveals that the caliber of political leadership in the Congress has, on the whole, been worthy of respect.

A roster of the Representatives and Senators who have represented their districts and States in excess of the proposed limits scarcely contains a preponderant litany of horrors. Thus, the Constitution, in setting no limits on the length of time Members of Congress may serve, does work, and it works very well. When something works, especially something so fundamental as a constitution, I submit that it is better to let it continue to work than to alter it and run the risk of unanticipated and undesired consequences. The cure might well be worse than the defects to be remedied. In sum, it is difficult to appreciate the necessity for an arbitrary limit on service in the Congress irrespective of the quality of that service or of the approbation for that service as manifested at the polls.

The American Constitution is the oldest operating written constitution in the world. One should only, with the utmost caution and temerity, alter that fundamental structure—and only if a compelling need exists which cannot be met by the ordinary functioning of the political system. I believe that no such need is present in this case.

Hence, on democratic grounds and on pragmatic grounds, I respectfully urge that this proposed amendment to the Constitution not go forward. The balance of my remarks will endeavor to address the principal arguments proffered by the supporters of the proposed amendment.

First, let me deal with the proposition that a limit on congressional service would be consistent with the 22d amendment, which limits presidential tenure. It is said that the arguments supporting adoption of the 22d amendment were equally applicable in the present instance. I would urge, however, that whatever the disagreements that divided the proponents and opponents of the 22d amendment, the analogy is not apt. The 22d amendment was proposed by the Congress in 1947, following a decade and a half of intensive enlargement of presidential power as a result of a disastrous economic depression and a World War.

While the Congress has, in recent years, partly restored the balance of power vis-à-vis the President, there has been no expansion of congressional power commensurate with that obtained by the executive

branch in the Rooseveltian era. In the extended debate on the proposed 22d amendment, one of the principal arguments was that a limit on presidential tenure was needed to protect the Nation against a possible executive dictatorship.

Indeed, and you will note the coincidence that in reporting House Joint Resolution 27 to the floor of the Senate, the Committee on the Judiciary referred to the "possible of an executive dynasty." Surely, there is little fear in the land today of a nascent congressional dictatorship. Moreover, one of the major reasons advanced for the adoption of the 22d amendment was that the measure was needed to restore the 2-year term tradition broken by Franklin D. Roosevelt when he sought and won reelection in 1940 and 1944. In the present case, there is no such tradition to restore. Indeed, with respect to congressional tenure in office, the tradition is one of unlimited eligibility for reelection, subject only to the judgment of the respective electorates.

The concentration of power in a single elected executive, as provided by article II of the Constitution, might give rise to fears of excessive unchecked power. However, this concern is scarcely relevant to a bicameral body consisting of 435 Representatives and 100 Senators representing different districts and States and, in the case of the Senate, elected to staggered terms of office.

Indeed, the very concerns of the framers of the 22d amendment counter the arguments advanced on behalf of this newly-proposed measure. That is, the capacity to forestall the aggrandizement of power by the executive branch requires the Congress to enlarge its check and balance potency. Who will stand as a bulwark against the possibility of what we have come to call an "imperial presidency?"

Skilled and experienced statesmen providing leadership in both Houses of the Congress are now more vital than ever to check executive power and bureaucratic excesses. This proposed amendment would, in practice, weaken the capability of Congress to perform its historic role of restraining runaway executive power.

A second argument advanced by the proponents of the proposed amendment is that the absence of limits on congressional terms diminishes the equal representation of individuals and States; that is, it unfairly advantages certain States and individuals through the seniority system since seniority confers unequal power.

But the Congress already possesses the authority to reduce the power of Representatives and Senators who may derive unequal influence by virtue of the seniority system. The Constitution grants both houses the power to regulate their own rules and internal structure.

Nor is this merely a theoretical possibility. The Congress has, in fact, effectively altered the influence gained through seniority in recent years. Thomas J. Foley, chief of the U.S. News & World Report staff dealing with Congress, stated recently in the September 26, 1977 issue, on page 25, that :

Chairmen remain important figures, but their powers now are constrained by the consensus on their committees, in Congress and in the country. What does this mean for Americans generally? It means a Congress more responsive than ever before to the sweep of voter opinion and less prone to the throttling of popular legislation by parliamentary maneuvers.

Nor has Congress exhausted its capability to alter even further the structures and procedures which lend special influence to particular

Members. Moreover, the Congress can exercise its power to change its rules by smaller majorities in both Houses than would be required for a constitutional amendment.

Nor would approval by the State legislatures be needed. Indeed, if either House should elect further to reduce the perquisites of committee chairmen, it can do so without obtaining the concurrence of the other chamber.

A third argument offered in favor of the proposed amendment is that "citizen politicians," rather than professional politicians, should be the mainstay of the legislative process. The country, it is said, is not well served by a professional legislature. Indeed, as many people as possible should be afforded the opportunity to serve in the Congress, and this amendment would broaden this opportunity.

In responding to this argument, I would suggest that a rather attractive but romantically impractical myth persists that legislators are democratically representative of the people only if they are political amateurs who move in and out of public and private life. It is dubious that this ever really prevailed; many of the most important leaders of the American founding decade themselves were professional politicians, however much they may have yearned for the quiet of Monticello, or Montpelier, or Mount Vernon. The term "professional politician" may not ring as majestically in the ear as does that of "citizen politician," but what do we mean by the word "statesmen" if not those persons of established integrity in proven roles in extended public service?

As columnist George Will has pointed out, the amendment might well make a great congressional career impossible. Had Senate Joint Resolution 27 been applicable to the present Congress, 33 Members of the Senate and 130 Members of the House could not have taken office at the beginning of the first session.

No one would claim that all of these represented great congressional careers in the making. However, the people have a great deal to do with determining how history will record the worth of the individuals who might arbitrarily and prematurely find themselves ineligible for further service in the Congress. The time needed to master the subtleness of a great Nation has expanded commensurate with the expansion of the responsibilities of a world power and the complexities of modern political economy.

It is readily acknowledged that the desire for assuring a continuing influx of new blood in the Congress is reasonable. Those who share this concern may be reassured: there is new blood. Eighteen new Senators took office as a result of the 1976 elections. In the House, 64 new Representatives—17.5 percent of the membership—took office on January 3, 1977. Thus, at one single point in the chronology of American elections, 18 percent of the Congress was brand new as an outcome of the normal operation of the Constitution in its historic form. Actually the figure of 38 percent of the House emerges if we include sophomores as well as freshmen representatives.

The Wall Street Journal, in a recent article said, "The newcomers are clearly in the ascendancy. Over half of the House Members and 45 percent of the Senators have been elected in the past 6 years." But experience, as well as new blood, is needed.

As Mr. Madison said in convention on Wednesday, June 21, 1787:

Much was to be said also on the time requisite for new Members who would always form a large proportion, to acquire that knowledge of the affairs of the States in general without which their trust could not usefully be discharged.

I might insert parenthetically that the favorite whipping place on the Potomac here, the Washingtonian's disconnectedness from the Nation, might be more benignly put. There also needs to be a national perspective for national affairs to be dealt with appropriately. There can be excessive provincialism as well. It's a matter of balance and how far tilted we are in one or the other direction. I recognize that we are disagreeing there.

Whatever might have been said as to the adequacy and benefits of the so-called legislator in the early days of the Republic and on local levels of Government, current complexities are such as to make the term a euphemism for amateurism. We have already said enough with respect to the current responsibilities of the Congress vis-à-vis the executive branch. The same point applies here.

Moreover, one might ask how practical it is for so-called citizen-politicians to move back into career lines after limited service of the envisioned duration? Would the best fitted be more available or less? Would the most talented be able so readily to satisfy their ambitions via truncated careers? As with any prediction, I can only give one man's view, at best an educated guess. But that is why constitutional change of what has worked well until now is so risky. And, in any event, I find the answers to the preceding questions more likely to suggest a worsening rather than an improvement of our body politic.

Indeed, one might speculate that the unintended, but actual, outcome of the proposal would be to increase the number of skilled lobbyists who operate on the Washington scene. I would prefer to keep those ambitious persons with their accumulated skills working inside experienced legislators.

Finally, it is true that the proposed amendment eventually would insure that more persons would serve in the Congress than is now the case. However, in a Nation with a population exceeding 250 million the Government on behalf of the Congress. As Mr. Madison said a long time ago—"let the ambition of the man fit the needs of the place." I think Mr. Madison was right, and I think he would now be asking us why we would contemplate depriving ourselves of the most persons, the additional number of new faces every dozen or so years would be so miniscule as to be insignificant.

Another argument on behalf of the proposed amendment derives from the belief that all Congressmen are equal but some are more equal than others, and that such inequality results from the domination of some districts by a single party over a long period of time. As Senator DeConcini has argued:

"Not only does it bring personal power and prestige, it enables that person to ensure that the people he represents will receive benefits out of proportion to a purely rational allocation of Federal resources.

I would urge again that the democratic principle requires that we honor the choices of the people in their districts and States. If in their view a single party historically serves their interests best, there is no good reason for obstructing their selection. As to that selection

providing an unfair advantage in the allocation of appropriations or Federal programs, that is wholly within the power of the Congress to remedy. An old saw in political science states: "you cannot take the politics out of politics." It's not very scientific, but I think it has a shrewdness about it. I can envision no system which will be able perfectly to avoid the fact that some legislators will be more equal than others, for good or ill, whether by virtue of superior qualities of as an outcome of less virtuous characteristics.

Representative democracy, which is how James Madison defines a democratic republic, provides for selection by election. Equality is provided in the form of equal access of citizens to the ballot and the freedom of eligible citizens to run for office. Responsibility for the quality of office holders reposes in that free choice of the electorate.

The reward for one-party domination of districts or States is another aspect of seniority. If this is a fault, the remedy need not be sought in a constitutional amendment. The simplest remedy would be to end seniority, or to limit its extent. The Congress can achieve that goal by limiting the total number of years which any single legislator may serve as chairman of a committee, by rotating their chair positions, by shifting committee assignments at said intervals, et cetera. Again, a constitutional amendment is not required by any such changes in the rules.

Finally, it is asserted that the amendment would strengthen legislators' resolve to say "no" to special interest groups rather than agreeing to their demands in the interest of insuring reelection. This is indeed an appealing argument, but it overlooks certain basic characteristics of our political system.

The activity of interest groups is essentially a function of freedom of forming association. Tocqueville pointed out long ago the penchant of Americans for forming associations. Democratic pluralism is a vital means by which public opinion becomes articulated and organized so that it may be more effectively represented before this body. I must insert, parenthetically, that I think an unintended outcome of limiting the terms of office may be not to send people back to their States but to increase the number of ex-Congressmen who are lobbyists who continue to serve here in that other capacity.

The capability of resisting wrongful pressure is one which depends not only on the virtue of those who serve in the House and Senate, but it is the function of the checks and balances by which interest counters interest, and ambition is made to counter ambition. The governmental branches watch each other, and the people with remarkable regularity over the long run manage to replace the narrowly self-interested. Perhaps this system deserves only the restrained enthusiasm of an E. F. Forster who write "Two Cheers for Democracy," somewhat in the spirit of Winston Churchill, who endorsed democracy as "the worst form of government, except for the alternatives." I personally offer three cheers for Mr. Madison's Constitution.

Let me conclude on the same pragmatic note on which I began. The burden of proof rests on those who propose changes in the fundamental constitutional law. Only the most compelling necessity emerging from a critical need for change, evidenced in an unmistakable manner, can override the presumption of constitutional continuity.

The sense of legitimacy which insures stability of government and continuity between the generations should not be lightly risked. The conservative presumption of constitutional "innocence" can indeed be overcome but only on evidence of a critical necessity that cannot be accomplished in the ordinary operations of the political system.

How critical is the need to seek reform of the Congress by way of the proposed amendment? The fact is that Congress is working far better than many would acknowledge. Let me again cite Mr. Foley's article in U.S. News and World Report regarding his recent assessment of the Congress. He concludes that Congress is more democratic; legislative leadership is more widely dispersed, with younger legislators playing more important roles; the secrecy surrounding lawmaking largely has been eliminated; the ethical restrictions of Congress have been significantly enhanced; Congress is more responsible in fiscal matters; and Congress works harder.

Thus, with all due respect for the proponents of this measure, I do not believe there is evidence of a compelling necessity requiring a constitutional amendment as proposed.

And finally, it is well to be reminded of Mr. Madison's belief in the right of the people to select their own representative as expressed in The Federal Number 57:

Who are to be the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of his country. No qualification of wealth, of birth, of religious faith, or of civil profession is permitted to fetter the judgment or disappoint the inclination of the people.

Thank you.

Senator DECONCINI. Thank you very much. I want to thank you for taking the time to come here today and respond to my position. I think the dialog is good.

Let me ask you a couple of questions. In your statement which I had not read earlier but will read completely, how do you overcome the problem of incumbency. It seems to me almost inarguable that that is of great benefit and an unequalizer in the sense that someone who is an incumbent has an overbearing advantage.

Dr. GARFINKEL. Indeed, that is an important issue. I do not think there is any perfection on God's earth. Within the bounds of human frailty, I think the system works well. The incumbent does have an advantage which is plainly name recognition. I think in part the incumbent does have an advantage which is plainly name recognition. I think in part the incumbent should have an advantage. There is a record on the line. The electorate has an opportunity of viewing that.

Moreover, we are not only talking about an electorate in general, the general run of voters who may or may not be attentive and do their duty. We know the problem in American society of apathy and low turnouts at the polls. But we have an interest group structure as well, and the lobbyists are watching carefully, particularly on the matters that concern them. We have the "Ag 40" as they are called in my State, who are certainly not inattentive to or apathetic to the agricultural issues within Nebraska or to the conduct within these halls with respect to their interests. I'm talking too long in answering you question. I should stop. But that would be the line along which I would answer.

Senator DECONCINI. You addressed it.

One other question is this. I cannot come to the same conclusion you did, that Congress is doing so well, or the public would not have such a bad image. They have such a low respect for it that I wonder how you explain your statement that we think we are doing so well, and that we ought to pat ourselves on the back, because we do work hard and we do a lot of good things, notwithstanding this image.

Dr. GARFINKEL. I believe that comic strip lampooning of Congress is the seamy side of a free press. It cannot be forbidden. Voltaire's "I would defend their right to do it" is there, but I think it is regrettable and unwarranted.

Senator SCOTT. Mr. Chairman, let me ask you a question. Are you suggesting that the media does not let the facts interfere with a good story?

Dr. GARFINKEL. I think they are after the bad story. It is a bad case getting the headlines. The bulk of the Congress is extremely hard-working, as any one who has spent even a modicum of time here knows. The hours are long. It is arduous. One puts one's career on the line regularly. It is indeed not appreciated frequently, and it is easily lampooned. But I believe the recent assessments by tough-minded analysts like Mr. Foley, are accurate. I think that for every Congressman who has engaged in a peccadillo or engaged in some kind of relationship where there is a taint of corruption in buying favor, I think that we have the morality and the efficiency of the Congress higher than one might expect, given all that's been written over the ages about the frailties and imperfections of the democratic system.

The difficulty, if I may say so, Senator, is that we have a tendency for utopian standards to be raised. It is very easy to pose a standard, in the abstract, of perfection. There are few of us as parents, or as teachers, or few of us as administrators, and few of us as professionals in any walk of life who could measure up to such a standard and the kind of scrutiny which this body bears and should bear in the public limelight.

Senator SCOTT. Dr. Garfinkel, let me thank you and add my word of appreciation to you for your scholarly presentation and for your expression of opinions. I was somewhat interested in your comments with regard to the special interest groups and the resisting pressures. I cannot believe that this bill would have any material effect on that. I think it depends on the makeup of the individual Member of the Congress and his own sense of what is right and what is wrong, rather than terms of office.

I notice from this bill there would be 14 years in the House of Representatives and then he could serve two terms in the Senate so a person could serve a total of 26 years or through the appointment process he could serve even longer than that. Perhaps he could serve as long as 29 years. It mentions 14 years in the House and in section 2 it mentions 15 years, so that is almost as long as people serve now.

We had Congressman Celler who served over 50 years. He was defeated by someone who had never run for office before. So incumbents can be defeated, even an influential man like Congressman Celler of New York.

I would be glad to hear any further comments you may have on that. If not, I appreciate your being here.

Dr. GARFINKEL. On the interest group point, it was the argument of the proponents that there was an excessive power in interest groups. I'm simply arguing in accordance with what you've just said that I doubt if it would be effective one way or the other.

I feel it would be endemic to a free society where freedom of association prevails and the great diversity of interests that we have exist that there will be such associations, and that they will have unequal interest in what takes place. The generally apathetic public, which only from time to time will bring its interest to bear, plainly will be outdistanced by them, but that is why we need this body to be experienced in dealing with them and to present a variety of constituency interests so that one may check the other.

Mr. Madison referred to the extended republic of multiple interests and sects as the greatest guarantee.

Senator SCOTT. Would you repeat that for us? I didn't understand that.

Dr. GARFINKEL. Mr. Madison said this. He speaks of the American Republic as "the extended republic of multiple interests and sects." He said that a large republic is ultimately the critical guarantee that there will be the necessary countering by one interest against another or one ambition against another.

Senator SCOTT. Were you saying multiple interests in sects?

Dr. GARFINKEL. I am sorry. I was born in New York City, and I've spent a great deal of time in the Midwest. Nobody understands me. I go back East, and they don't understand me. I said sects.

Senator SCOTT. Thank you very much. [Laughter.]

Senator DECONCINI. Thank you, Dr. Garfinkel. We appreciate your testimony. Indeed it will be helpful to this committee.

Will you wait just one moment? My staff would like to ask one question.

Dr. Ritt?

Dr. RITT. You argue against the proposed constitutional amendment on the ground that the Constitution works. This has been argued before, that is, if it's not broke, don't fix it. Doesn't this imply that we must wait for a full constitutional breakdown before we can correct an obvious evil? Isn't that a kind of an antireformist argument? Don't you think that the problems that have been elucidated so far are significant enough that a constitutional amendment might be necessary? In other words, you cannot just say that it is not really necessary. We don't have to wait for Armageddon.

Dr. GARFINKEL. I am simply saying that the remedy lies fully within the powers of Congress in a far more expeditious way than seeking the long arduous route of a constitutional amendment. If the Congress is of the mind to end the power that comes or the influence that comes from one party districts and longevity or seniority, they have it fully within their power. Moreover you don't even have to have the approval of the other body. Each House, by the Constitution, is fully in power over its own rules.

So, I am saying to you sir, that the remedy for the alleged defects lies within your grasp and that to amend the Constitution and incur the possible loss of the legitimacy of that instrument coming over the years by eroding, and by looking to the Constitution as one that one

should be able to alter any time anybody thinks there is a problem would be historically a mistake. That would be my answer.

Dr. RITT. Thank you very much.

Senator DECONCINI. We thank you very much, Dr. Garfinkel.

Our next witness is Mr. John C. Gartland, director of the Foundation for the Study of Presidential and Congressional Terms.

Mr. Gartland, if you will proceed with your testimony.

I am going to find it necessary to leave for a few minutes. I would like a copy of your testimony and I will talk to you about it. Senator Scott will chair the meeting, so you can continue the hearing.

We will have to quit by 11 o'clock by the Senate rules anyway. If you don't complete your testimony by that time, we will place it in the record.

Mr. GARTLAND. I do have an abbreviated version. Would you rather just have the questions?

Senator DECONCINI. I'll leave that up to you. Senator Scott can chair until 11 o'clock, and that will give you 25 minutes to do whatever you like. I am sorry that I will have to leave due to something pending on the floor right now. Please proceed. I want to thank you very much and compliment you and the Foundation on their efforts in this case. Frankly, I think it is one of the things that has spurred many of us on to continue this effort because there is someone outside of these Halls who is focusing just on this particular area.

In our job it is difficult to continue in this body and I am supportive of your Foundation and I appreciate the effort that you have put forward. I commend you and the members of the Foundation. I am very proud to be a member of the board of directors.

Thank you very much.

Senator SCOTT [acting chairman]. Mr. Gartland, for my benefit and for the record, may we have a comment or two before you get into your testimony about your Foundation and how it came about and how it is made up—just a brief statement.

Mr. GARTLAND. I would be happy to.

TESTIMONY OF JOHN C. GARTLAND, DIRECTOR, FOUNDATION FOR THE STUDY OF PRESIDENTIAL AND CONGRESSIONAL TERMS, ACCOMPANIED BY CATHARINE W. TRAUERNICHT

Mr. GARTLAND. The Foundation for the Study of Presidential and Congressional Terms was established nine months ago after several individuals, who had been concerned over the years about the problems of incumbency and the Presidency, got together and asked me to get the Foundation started. The Foundation is studying four basic questions, and those are: One, should there be a limit as to how long people may serve in the House and Senate; two, should the House term be extended to 3 or 4 years, and is 2 years just too short; three, should a Member resign from either the House or Senate if he decides to run for a different Federal office; and fourth, would the country be better off with a 6-year, one-term President?

We have two purposes. One is to study these questions, and the other is to begin a national debate on these subjects. We hope to be sponsoring national symposiums across the country. The first year we

hope to concentrate on the college level with what we call symposiums—mini conventions.

We hope that within the year we will have finished our research projects. We plan to publish a book and Charles Bartlett, the Pulitzer prize winning columnist has agreed to help us with it.

Senator SCOTT. Mr. Gartland, I have some personal thoughts as to the practicality of this because, obviously, you have the incumbency. I am not a candidate for reelection, so the personal situation does not enter into it. In fact, I will have served 12 years in the Congress which is well within the limitation suggested.

But as far as extending the terms of the Members of the House, I had a bill some 10 years or more ago in the House, that would have the Members serve for 4 years and half of them be elected every 2 years. I remember being told, actually by Congressman Celler, who was the chairman of the Judiciary Committee, the committee which the bill would have to go through, that the bill could pass in the House but that the Senate would never pass it because Members of the House could run against Senators at the middle of their term. So Senators, it was said would be inviting opposition from incumbent Members of the House who would not have to give up their seat in order to run for the Senate. So there are practical things like that. I think that is true in the Senate.

Having said that, if you will go ahead with your statement—

Mr. GARTLAND. I would like to comment on that.

Senator SCOTT. Certainly.

Mr. GARTLAND. That is why we are looking at the third question: Should a Member resign if he decides to run for a different Federal office? That would cure the problem, I think, with the Senate for the 4-year House term, in that if a Representative decided to run against a Senator in the middle of his 4-year term, then the Representative would have to resign to do so.

Also, those Members who run for President would have to resign their current office. So I think it cures two problems and would make it open for the Senate accepting it.

Senator SCOTT. That would mean that two-thirds of the Senate would have to resign every time there was a presidential election. [Laughter.]

I'm just making fun. Go right ahead.

Mr. GARTLAND. All right.

Senator SCOTT. We will insert your prepared statement into the record in its entirety.

Mr. GARTLAND. Mr. Chairman, it is a privilege to appear before the Subcommittee on the Constitution. After serving 8 years in the Federal Government, which included service in the Post Office and Treasury Departments, in the White House, and as administrative assistant to a Member of the House of Representatives, I became very interested in the reform to place a limit on the service of Members of Congress. My interest led me to participate in the creation of the Foundation for the Study of Presidential and Congressional Terms. Our studies at the Foundation have barely gotten underway, and the views I express today are mine, not those of the Foundation.

I favor limiting congressional service because I see it as the best, if not the only, way to repair the damage to representative govern-

ment that is caused by allowing legislators to remain in Congress so long that many of them grow stale and out of touch with the citizens who sent them to Washington. Too many Members, over the past 50 years, have encased themselves in a protective shell which makes our elections reflect the incumbents' advantages more than the will of the voters. It is time, I believe, to reinvigorate our representative democracy by restoring true competition to the political marketplace.

The idea of service limitation is nothing new to the American political system; indeed, the notion has been discussed for nearly 200 years, and now commands growing support from the American people as evidenced by Gallup surveys. From 1776-1788, delegates under the Articles of Confederation could not serve for more than 3 years in any 6-year period. Since 1789, approximately 67 constitutional amendments providing for a limitation on service for both Senators and Representatives have been introduced in Congress.

In recent years, the service limitation concept has won growing support from several of our national leaders. In 1951, President Harry Truman announced his support for a 12-year limitation on service. Later, President Dwight Eisenhower also supported limiting Senators to two 6-year terms and Representatives to three terms of 4 years each. In his book "Waging Peace," Eisenhower wrote that each person serving under term limitation

Would tend to think of his congressional career as an important and exciting interlude in his life, a period dedicated to the entire public rather than as a way of making a living or making a career of exercising continuous political power * * *. A more rapid turnover of the membership in both Houses with its constant infusion of new blood would largely eliminate the "career" politician in Congress, but I can see little damage that would result from such a change except possibly to the personal ambitions of particular individuals.

Eisenhower went on to say that

experience may produce greater skill in political maneuvering in the legislative process, but [it] does not necessarily produce better statesmen.

When asked to comment upon Eisenhower's support for service limitation, President John Kennedy replied, "It's the sort of proposal I might advance in a post-presidential period, but not right now."

I believe there are five basic problems in our political system today which service limitation may correct.

Briefly, they are: (1) Our legislators have become professional, career politicians; (2) the current system has created a billion dollar Congress; (3) long-term legislators have become "Washingtonians", who have a tendency to lose touch with the life back home; (4) our legislators have become, in effect, "errand boys" for their constituents; and (5) on the whole, members have a preoccupying interest in getting reelected, and do not devote enough time toward their constitutional duty of legislating on behalf of their constituents.

I would like to focus now on the argument that, generally speaking, Members of Congress have become "professional politicians" who, by their longevity of service, are stifling competition in the political marketplace and weakening representative democracy.

The professional politician is a 20th century phenomenon. During the 1800's, turnover in Congress was relatively high: 40-50 percent at every election. Commencing with this century, turnover has dropped

markedly—down to 16 percent in 1976. In all elections since World War II, approximately 93 percent of Members of Congress have sought to be returned to Congress, and of that number approximately 93 percent have won their bids. All statistics show that the number of congressional districts rated as “safe” is increasing in every election, while the number of marginal or swing districts dwindles.

In the past, marginal districts—those in which a Member was not automatically assured of reelection—provided an important safety valve for our democracy: in every election, the public could elect new Members to Congress who would more accurately reflect changing needs or changing views back home. That fresh blood continually revitalized Congress and made it more representative to a rapidly-changing electorate.

Today, the country continues to change rapidly, but the Congress tends to remain very much the same; and judging from a variety of public opinion polls, Congress is drifting farther and farther out of touch.

The decline in percentages of freshmen House Members can be seen on the chart which is included in my written testimony, and which you have displayed before you.

[Chart shown.]

Senator SCOTT. Without objection, the chart will be inserted in the record.

Mr. GARTLAND. The trends are similar for the Senate, but I use the House as an example because I have the data over a longer period of time. The chart also shows the rise in House expenditures. I believe these expenditures are directly related to the rise in constituent services. It is more than coincidence that the rise in these expenses has occurred while incumbents were transferring their turf into safe districts. The outlays reflect the increased opportunities incumbents have to pursue name recognition and the gratitude of their constituents with more and more types of taxpayer-financed assistance. Expenditures on the legislative branch of our government have broken the billion dollar mark.

We face the paradox of a Congress whose Members grow more and more secure in their seats, while the performance of the institution is rated less and less satisfactory by the public. The irony is that many members, endeared to their constituents by their personal services, are facilitating their reelections by campaigning against the behavior of Congress.

To make the point, let's look at these figures: in 1976, over 96 percent of the House Members running were re-elected, and over 73 percent of the Senators running were returned. But that year, according to a Harris poll, only 9 percent of American voters had a great deal of confidence in congressional leadership; and, at election time, according to a Gallup survey, only 28 percent of the voters approved of the way Congress was handling its job.

No matter what the collective opinion of Congress, it is more and more difficult to unseat incumbents. The taxpayers are, in effect, giving decided campaign advantages—worth upwards of \$1 million—to incumbents in staff and office allowances, publicity, and numerous perquisites of office.

In a busy society, the importance of name recognition cannot be overemphasized. How does a challenger compete effectively with the voter familiarity of an incumbent who can spend more than \$600,000 in public money for mailings; who enjoys backup from a large and well-paid staff; who has access to speech-writing services as well as other sophisticated legislative and research facilities, to special rates at TV and radio recording studios, and to the heavy media coverage that is concentrated in Washington; and who has millions of Government publications available for mailing to constituents without request?

The use of the frank is perhaps the most significant incumbent advantage. As political scientist, David Mayhew has pointed out, use of the frank has increased substantially since 1963—exactly at the time when marginal districts began an accelerating decline.

We have come a long way from the days of the citizen legislator who lived among the people who elected him, and stayed in a Washington hotel while he attended sessions of Congress, sessions which preempted only a fraction of his year. This sort of representation is no longer possible because Congress is a year-round business. There is no way to avoid the realities which have caused membership in Congress to evolve as a Washington way of life.

One purpose of the service limitation amendment is to rescue Congress from its present tendency to become dominated by Washingtonians. The longer a Member remains in office, the more likely he is to concentrate his friends, hobbies, family, and lifestyle in Washington, losing touch with the life back home. There is also a real danger that the longer one remains in Washington, the more likely one becomes convinced that society's problems can or should be solved by the Federal Government.

If members knew they would be obligated to leave Congress after a specified period of time to live with the laws and regulations implemented during their tenure, they may be prompted to take a closer look at legislation and regulations proposed while they serve in office. Three examples come readily to mind, and I would be happy to discuss them should time permit at the conclusion of my testimony.

By limiting service for Members of Congress, we can revitalize representative government, bringing into Government service men and women with more diverse backgrounds, experience, knowledge, and expertise; people who understand what it's like to cope with Federal laws, rules and regulations, as opposed to the career politician who only knows how to make the laws and devise the regulations which are so often the cause for harassment.

Also, by limiting service, I believe we would see a return to the essential, constitutional duty of the Congress, and that is the duty to legislate on behalf of the American people. The contemporary Congressman has been referred to as an errand boy for his constituents, more interested in untangling bureaucratic red tape for constituents—the tape which Congress has generated—or procuring Federal support for district projects in order to win reelection, than in his role as public policy maker. In the midst of all this reelection effort, many politically volatile issues and long-range problems that require solutions remain unresolved.

I do not mean to slight constituent service. It is a very important and legitimate function in today's complex, impersonal world. But a better balance must be struck between serving constituents through the functions of an errand boy, and serving constituents through better legislation.

I grant that it is often difficult to draw the lines clearly between representative service to constituents and service that is political in nature aimed at reelection support. However, I am of the opinion that, on the whole, Members of Congress have succeeded in expanding staff personnel and equipment not to keep pace primarily with legislative activity, but to generate and enhance constituency service for reelection purposes. Service is the name of the game, and needs can be created where no one sought or considered Federal help before; such service attracts votes.

An interesting study conducted by an assistant professor of political science at the California Institute of Technology, shows that over the past 15 years there has been a doubling of personal staff resources for Members at a time when incumbents were being returned to office in record numbers. Related studies further point out that Members' staffs spend anywhere from 14 to 18 percent of their time on legislative matters, while most of the remainder of their time is spent on constituent-related services.

I believe Members serving under the term limitation would be less apt to concern themselves with reelection pressures, and would allow themselves more time to devote to their duties as legislators for their constituents.

Another aspect of service limitation which deserves mention is the effect it would have on special interest group pressure. I believe it would dilute this kind of pressure on our legislators, many of whom are heavily dependent upon lobby interest support to finance their campaigns. Admittedly, we cannot completely eradicate the pressure, but the more obvious examples of political payoffs would not occur under a system in which legislators knew they could not develop and maintain influential political careers.

The lame duck paralysis problem will be raised against this amendment. But the suggestion that a legislator will be somehow crippled in his final term by his inability to run again denies the prospect that he will have reached the peak of his seniority in his final term. Last-termers will be sitting in the chairs of the Speaker and the President Pro Tem, the floor leaders and the committee chairmen. The fact that they will be able to exert those responsibilities without carrying the burden of reelection pressures will make them more disposed to pursue the dictates of broad general interest for the country.

Service limitation amendments are not offered as a panacea for the problems of the Republic. Rather, they are offered in the spirit of Thomas Jefferson who once wrote, "I dislike, and greatly dislike * * * the abandonment in every instance of the necessity of rotation in office." Wise and judicious talent for governing is by no means rested in long-term incumbents.

I favor service limitation as a way to repopulate Congress with citizen legislators, people of more varied backgrounds who will be more apt to serve the country without a preoccupying interest in reelection. This is the best way to bring Congress closer to the people.

And there are signs that the people agree: A December 4, 1977 Gallup poll shows 60 percent of American voters favor limiting by law a Senator to two 6-year terms, and 59 percent favor limiting by law a Member of the House to three terms of 4 years each. These figures show an increase in public support for these proposals since similar polls were taken in 1964, 1966, and 1971.

In light of this indication of the public's attitude, I urge this subcommittee to begin the process of sending forward a constitutional amendment limiting service of Members of Congress to the full Judiciary Committee, so that, eventually, the amendment can be submitted to the people of this country for approval or disapproval. The voice of the people should determine whether or not such an amendment should be added to our Constitution. Let the people speak by submitting the amendment to the States.

I would like to conclude my testimony by quoting Benjamin Franklin.

In free governments the rulers are the servants, and the people are their superiors and sovereigns. For the former therefore to return among the latter was not to degrade them but to promote them.

Thank you sir.

Senator SCOTT. Thank you, Mr. Gartland, for being with us and for your contribution to the hearings. You speak of constituent service and that it should not be used for the purpose of reelection, and yet you recognize the desirability of serving constituents. How do you distinguish between serving constituents in a proper manner and serving for the purpose of reelection? It does not seem to me that you can distinguish between the two. If a Member of the Congress in either body helps a constituent, it is bound to contribute for whatever motive. It is bound to contribute at least to the gratitude of the people he helps. I wonder where do you draw any line between helping for reelection and serving for the purpose of trying to be helpful as you should be to the people who elected the person to office?

Mr. GARTLAND. I think the representative does have a responsibility if the constituent is having a problem to try and straighten out the problem to see if there is a legislative remedy. But what the Congressmen have done is to become really the go-between between the executive branch and the American people. I do not think that just because a person writes to a Congressman and asks for the speedup of his veteran's check, that letter should be handled before a letter from an average citizen writing to his Federal Government in the executive branch.

What we have created—and I've been in the executive branch—is that all congressional inquiries are handled at a much faster rate for a constituent than the average American writing to his Government which he is paying for.

The Congress is not paying for the Federal Government. It is the American people.

The Congressmen have newsletters all over the country saying, "How can I help you with your Federal Government?" The Congressmen are encouraging the American people to write to them instead of writing to the executive branch. Because the executive branch takes its money from the Congress, although the Congress does not pay for

it out of their own pocket because the American people pay for it, the constituent gets quicker service. I think we have fostered this. You, as a Congressman, or someone else would help me proceed in getting my veteran's check and I would vote for you.

Senator SCOTT. I heard your expression regarding the time you spent in the executive branch of Government. My service is several times what yours is. I am sure that it is because I have spent more than 26 years in the Government. I'm sure your statements are true. I remember at the Department of Justice the congressional mail had to be answered within 24 hours or an explanation was required—it either had to be acknowledged if it were going to take longer or an explanation would go out later to the Congressman.

I don't believe we are going to change that in legislation, that is, by legislation. I am not sure that we should change it.

I share your thought that it would be a pure democracy if every individual, regardless of who he was, did receive equal attention within the practical side of the Government, but it doesn't work that way. I do not believe we will change that by constitutional amendment. I am not sure we should.

A representative of the people should be able to expect a prompt response. In my own situation and I hope I will be pardoned for the personal references—I represent over 5 million people. They have seen fit to elect me. That is true of every Senator. He represents the people of his State. So it only seems reasonable that if he contacts a cabinet officer that they would—they have so much work to do within each of our executive offices that it would be nice and it might be a better way, if it were possible, to give them equal treatment. But I cannot see that with the workload that they have in the various executive departments that we could change that.

I think the Congress would be pretty much outraged if they did not get a response for 30, or 60, or 90 days. I know in our office we follow things up if we do not get fairly prompt responses.

Mr. GARTLAND. By placing a limit on how long people can serve in the Congress, I think that many Members neglect the constituent services. They now have mobile offices going around and looking for cases. Also, I think with service limitation you would cut down on the seniority system to a very good, workable thing. A man in his last years would be a committee chairman, or the Speaker, or the President Pro Tem, and then he would have more time to spend on legislation because he would not be going out seeking constituent support through personal services.

I think also that would make the executive branch more responsive to the American people.

Senator SCOTT. Mr. Gartland, I appreciate your being here, but our time actually has expired. I wanted to ask one more question. You referred to a citizen-legislator. I would ask you to define that. Are you talking about people with varied backgrounds? Are you talking about nonlawyers? Just what is a citizen-legislator and how does he differ from other legislators?

Mr. GARTLAND. A citizen-legislator, in my definition, is a person who has come to serve his country and is not here to look at his service as a career. I think that is how our Founding Fathers thought of it. I think that is what most people think of.

I think most politicians start that way, as citizen-legislators. They want to go out and do something. Then they realize that without the limitations and because the seniority system is in effect, that they have to do otherwise. The average service of committee chairmen is over 20 years. Yet the average years of service of Members of the House, I believe, is 5.2 terms and in the Senate it is about 13 years. They say, "Before I can do anything, I have to be here a long time." So then they start making a career out of it.

According to an initial study by the Foundation, only 18 percent of the personal staffs on the House side work on legislation or legislative correspondence. The other percentage work on constituent services.

I would like to see more Americans and older Americans come and serve in the Congress. But again, they look at the system, and say a person is 50 years old, he says he might have to be here until 70 before he could be a committee chairman where the power is.

So I think the service limitation would correct a lot of things. The citizen-legislator is a guy who comes in to serve his country and then goes back out to live under the rules and regulations that he has helped make.

Senator SCOTT. Thank you very much. We appreciate your contribution. You talked about constituent service and contact with constituents. Perhaps your foundation might consider the decisions of the Supreme Court which hold that an individual could spend any amount that he would care to out of his personal funds. It would seem to me that I would not quarrel with this decision at all. A man can spend his own money.

But if money wins the elections, then the House, and Senate would be made up of the wealthiest people in the country. We would need something to counteract that. I do believe that the Congress has placed a limitation but the court overthrew that. I am not asking you to respond because our time is up.

I would like to place in the record a statement by Senator Wallop who is unable to be here due to a hearing before the full Judiciary Committee on the Civiletti nomination. He was not able to participate.

[The prepared statement and addendum to Mr. Gartland's testimony follows:]

PREPARED STATEMENT BY JOHN C. GARTLAND

It is a privilege to appear before the Subcommittee on Constitutional Amendments. After serving 8 years in the Post Office and Treasury Departments, in the White House, and as Administrative Assistant to a Member of the House of Representatives, I became very interested in the reform to place a limit on the service of Members of Congress. My interest led me to participate in the creation of the Foundation for the Study of Presidential and Congressional Terms. Our studies at the Foundation have barely gotten underway, and the views I express today are mine, not those of the Foundation.

I favor limiting congressional service because I see it as the best, perhaps the only, way to repair the damage to representative government that is caused by allowing legislators to remain in Congress so long that many of them grow stale and out of touch with the citizens who sent them to Washington. Too many Members, over the past 50 years, have encased themselves in a protective shell which makes our elections reflect the incumbents' advantages more than the will of the voters. It is time, I believe, to reinvigorate our represent-

ative democracy by restoring true competition to the political marketplace.

I commend the Subcommittee for holding these hearings. It takes courage for the Members of this Subcommittee to direct attention toward any proposal that challenges the disposition to regard service in Congress as a lifetime career.

I. GROWING SUPPORT FOR AN OLD IDEA

The idea of service limitation is nothing new to the American political system; indeed, the notion has been discussed for nearly 200 years, and now commands growing support from the American people as evidenced by Gallup surveys. From 1776-1788, delegates under the Articles of Confederation could not serve for more than 3 years in any 6-year period. Since 1789, approximately 67 constitutional amendments providing for a limitation on service for both Senators and Representatives have been introduced in Congress. *Only twice* during this time has Congress given these amendments serious consideration.

During the 79th Congress (1945-1946), this Subcommittee held hearings on Senate Joint Resolution 21, calling for one 6-year term for Senators; the bill never was reported to the full Committee. And in 1947, during floor debate on the 22nd Amendment, Senator W. Lee O'Daniel (of Texas) offered an amendment to limit all elected federal officials to a single term of 6 years.

Yet in recent years, the service limitation concept has won growing support from several of our national leaders. In 1951, President Harry Truman announcing his support for a 12-year limit on years of service for Senators and Representatives. Later, President Dwight Eisenhower also supported limiting Senators to two 6-year terms and Representatives to three 4-year terms. In his book *Waging Peace*, Eisenhower wrote that each person serving under term limitation "would tend to think of his congressional career as an important and exciting interlude in his life, a period dedicated to the entire public rather than as a way of making a living or making a career of exercising continuous political power. * * * more rapid turnover of the membership in both Houses with its constant infusion of new blood would largely eliminate the 'career' politician in Congress, but I can see little damage that would result from such a change except possibly to the personal ambitions of particular individuals."¹ Eisenhower went on to say that "experience may produce greater skill in political maneuvering in the legislative process, but [it] does not necessarily produce better statesmen."²

When asked to comment upon Eisenhower's support for service limitation, President John Kennedy replied, "It's the sort of proposal I might advance in a post-presidential period, but not right now."³

Dr. Milton Eisenhower, brother of the President, scholar and author, wrote not long ago that:

"Service in the national Congress, instead of being a career, should be a contribution an individual makes to his country. Re-election should not be paramount and defeat at the polls should not be cause for personal frustration. Service in Congress should be an interruption to one's normal career, whether he or she be a lawyer, educator, manufacturer, finance expert, housewife, or social or cultural leader. * * * With reelection made less important and with the transcendent problems of keeping the nation at peace, prosperous, and constantly altering social programs and policies to meet changing economic, social, and cultural conditions, it seems inevitable that a more co-operative spirit would be evident in Washington [between the President and Congress]."⁴

Both Eisenhowers believed that the impetus for passing the amendments would have to come from the States, perhaps by constitutional convention. They had little confidence that Congress would assume the responsibility, a skepticism which *you* now have a chance to put to rest!

II. WHY SERVICE LIMITATION IS NEEDED

I believe there are five basic problems in our political system today which service limitation may correct. Briefly, and I shall expand upon them, they are:

1. Our legislators have become professional, career politicians.

¹ Dwight D. Eisenhower, *Waging Peace: 1956-1961* (Garden City, NY: Doubleday & Co., Inc., 1965), p. 643.

² *Ibid.*

³ Prof. Berman, *In Congress Assembled* (NY: Macmillan Co., 1964), p. 134, n. 31.

⁴ Milton S. Eisenhower, *The President Is Calling* (Garden City, NY: Doubleday & Co., Inc., 1974), p. 239-p. 240.

2. The current system has created a billion dollar Congress.
3. Long-term legislators have become "Washingtonians", who have a tendency to lose touch with the life back home.
4. Our legislators have become, in effect, "errand boys" for their constituents.
5. On the whole, Members have a preoccupying interest in getting reelected, and do not devote enough time toward public policy-making.

I'd like to focus now on the argument that, *generally speaking*, Members of Congress have become "professional politicians" who, by their longevity of service, are stifling competition in the political marketplace and weakening representative democracy.

The professional politician is a 20th century phenomenon. During the 1800's, turnover in Congress was relatively high: 40-50% at every election. Commencing with this century, turnover has dropped markedly * * * down to 16% in 1976. In all elections since World War II, approximately 93% of Members of Congress have sought to be returned to Congress, and of that number about 93% have won their bids. All statistics show that the number of congressional districts rated as "safe" is increasing in every election, while the number of "marginal" or "swing" districts dwindles. In the past, marginal districts (those in which a Member was not automatically assured of reelection) provided an important safety valve for our democracy: in every election, the public could more easily elect new Members to Congress who would more accurately or sensitively reflect changing needs or changing views back home. That fresh blood continually revitalized Congress and made it more responsive to a rapidly changing electorate. Today, the country continues to change rapidly, but the Congress tends to remain very much farther and farther out of touch.

The decline in percentages of freshmen Members can be seen on the chart which supplements my written testimony, and which you have displayed before you. The chart also juxtaposes this decline with the rise in expenditures on the legislative branch over the last 12 years. I believe these expenditures are directly related to the rise in constituent services. It is more than coincidence that the rise in these expenses has occurred while incumbents were transforming their turf into safe districts. The outlays reflect the increased opportunities incumbents have to pursue name recognition and the gratitude of their constituents with more and more types of taxpayer-financed assistance. Expenditures on the legislative branch of our government have now broken the *billion dollar* mark!

We face the paradox of a Congress whose Members grow more and more secure in their seats, while the performance of the institution is rated less and less satisfactory by the public. The irony is that many Members, endeared to their constituents by their personal services, are facilitating their reelections by campaigning *against* the behavior of Congress!

To make the point, let's look at these figures: In 1976, over 96% of the House Members running were reelected, and over 73% of the Senators running were returned. But that year, according to a Harris poll, only 9% of American voters had a great deal of confidence in congressional leadership; and at election time, according to a Gallup survey, only 28% of the voters approved of the way Congress was handling its job.

No matter what the collective opinion of Congress, it is more and more difficult to unseat incumbents. The taxpayers are, in effect, giving decided campaign advantages (worth upwards of one million dollars) to incumbents in staff and office allowances, publicity, and numerous perquisites of office.

In a busy society, the importance of name recognition cannot be overemphasized. How does a challenger compete effectively with the voter familiarity of an incumbent who can spend more than \$600,000 in public money for mailings; who enjoys back-up from a large and well-paid staff; who has access to speech-writing services as well as other sophisticated legislative and research facilities, to special rates at TV and radio recording studios, and to the heavy media coverage that is concentrated in Washington; and who has millions of government publications available for mailing to constituents without request?

The use of the frank is perhaps the most significant incumbent advantage. As political scientist David Mayhew has pointed out, use of the frank has in-

creased substantially since 1963—exactly at the time when marginal districts began an accelerating decline.

We have come a long way from the days of the "citizen legislator" who lived among the people who elected him, and lodged in a Washington hotel while he attended sessions of Congress, sessions which preempted only a fraction of his year. This sort of representation is no longer possible because Congress is a year-round business. There is no way to avoid the realities which have caused membership in Congress to evolve as a Washington way of life. One purpose of the service limitation amendment is to rescue the legislature from its present tendency to become dominated by "Washingtonians". The longer a Member remains in office, the more likely he is to concentrate his friends, hobbies, family, and lifestyle in Washington, losing touch with the life back home. There is also a real danger that the longer one remains in Washington, the more likely one becomes convinced that society's problems can or should be solved by the federal government.

If Members knew they would be obligated to leave Congress after a specified period of time to live with the laws and regulations implemented during their tenure, they may be prompted to take a closer look at legislation and regulations proposed while they serve in office. Three examples come readily to mind.

Do Members fully appreciate what the private sector worker (particularly the middle income worker) feels when Social Security taxes keep rising with no assurance that the system won't be bankrupt by the time he retires, and when continued inflation reduces the value of his retirement benefits? When given the opportunity to join the program last year, Members of Congress refused, thereby continuing their exemption from Social Security taxes.

Congress has also seen fit to exempt itself from compliance with OSHA regulations. Last year, an unofficial investigation was conducted by an OSHA inspector at the invitation of a Member of the House to examine work safety conditions within the House office buildings and the Capitol. *Fourteen violations*, or work hazards, were found in these buildings, and, of course, Congress did not have to pay one cent in penalties—penalties which would have been assessed in the private sector. I have included a listing of these violations in my written testimony.

Another exemption is that of equal employment opportunity laws. At the beginning of 1976, an informal House committee, the Fair Employment Practices Committee, was formed to hear complaints relating to job discrimination. There is no formal grievance procedure, but Members who join the Committee vow not to discriminate in their hiring practices; membership is voluntary. To date, since 1976, only 107 House Members have joined this committee (the number was 108 before Representative Badillo resigned to assume his post in the New York City government).

By limiting service for Members of Congress, we can revitalize representative government, bringing into government service men and women with more diverse backgrounds, experience, knowledge, and expertise * * * people who understand what it's like to cope with federal laws, rules and regulations, as opposed to the "career politician" who only knows how to make the laws and devise the regulations which are so often the cause for harassment.

Also, by limiting service, I believe we would see a return to the essential, *constitutional* duty of the Congress, and that is the duty to *legislate* on behalf of the American people. The contemporary Congressman has been referred to as an "errand boy" for his constituents, more interested in untangling bureaucratic red tape for constituents (the tape which Congress has generated) or procuring federal support for district projects in order to win reelection, than in his role as public policy maker. In the midst of all this reelection effort, many politically volatile issues and long-range problems that require solutions remain unresolved.

I do not mean to slight constituent service. It is a very important and legitimate function in today's complex, impersonal world. But a better balance must be struck between serving constituents through the functions of an ombudsman, and serving constituents through better legislation.

I grant that it is often difficult to draw the lines clearly between representative service to constituents and service that is political in nature aimed at reelection support. However, I am of the opinion that, on the whole, Members of

Congress have succeeded in expanding staff personnel and equipment not to keep pace primarily with legislative activity, but to generate and enhance constituency service for reelection purposes. *Service* is the name of the game, and needs can be created where no one sought or considered federal help before; such service attracts votes. An interesting study conducted by Morris Fiorina, associate professor of political science at the California Institute of Technology, shows that over the past 15 years there has been a doubling of personal staff resources for Members at a time when incumbents were being returned to office in record numbers. Related Studies further point out that Members' staffs spend anywhere from 14-18% of their time on legislative matters, while most of the remainder of the time is spent on constituent-related services.⁵

Fiorina also notes that an outgrowth of the rise in constituent services has led Congress to take on responsibilities of the executive branch agencies. The agencies exist to serve the *people* as much as they exist to assist Members of Congress. But given the choice of respond to inquiries from the people directly or from the Members, the Members receive priority attention. Consequently, Members receive the credit for resolving agency problems for their constituents. And, as we have seen in some instances, even innocent intervention on behalf of constituents can lead to appearances of corruption. It's good PR for the Member back home to act as ombudsman for the federal agencies, especially now when the bureaucracy does not enjoy the public's blessing. To carry this argument one step further, what incentive is there for Congress to cut spending on the bureaucracy when agencies are vehicles for getting public money to the districts for projects that will be popular to the voters? Members of Congress and the bureaucracy have a symbiotic relationship that indeed sustains each other: Members receive constituent support for unraveling red tape and procuring district projects, and the bureaucrats keep their jobs.

I have heard complaints that the Members of Congress have too little time to spend focusing on legislation, to attend committee meetings, or to read material pertinent to their work as legislators. But how do they spend their time? Could it be that they are preoccupied with constituent service for service sake?

Alan Otten of the *Wall Street Journal* discovered an orientation toward constituent service when interviewing several Members. Here are some of his findings as reported in the *Journal* of August 18, 1977:

One senior House Democrat said, "It's all well and good for these guys to give first-rate service to their constituents. But their work as legislators and as educators is third-rate, and that's not well and good."

A House leader accused some fellow Members of viewing service as an end in itself, while ignoring public policy unless it directly affects their districts.

One House freshman complained, "We have guys who spend all their time on the phone, calling constituents at random and asking if there's anything they can do to be of help."

A sophomore Member admits, "Let's face it, a lot of us are on a real ego trip. The direct mail, the mobile office back home, all the drudgery of casework—that's our ticket to keep on taking that trip."

Another colleague seems to sum it up: "The principal purpose of politics can't be simply survival. The guy who is looking at the weather vane every minute isn't doing his job properly."

I believe Members serving under service limitation would be less apt to concern themselves with reelection pressures, and would allow themselves more time to devote to their duties as legislators for their constituents.

Another aspect of service limitation which deserves mention is the effect it would have on "special interest group" pressure. I believe it would dilute this kind of pressure on our legislators, many of whom are heavily dependent upon lobby interest support to finance their campaigns. Admittedly, we cannot completely eradicate the pressure, but the more egregious examples of political payoffs would not occur under a system in which legislators knew they could not develop and maintain influential political careers.

⁵ Morris P. Fiorina, *Congress: Keystone of the Washington Establishment* (New Haven, Ct. Yale U. Press, 1977), p. 59; and study conducted by the Fd'n for the Study of Presidential and Congressional Terms, Washington, D.C. 1978.

The same principle behind the 22nd Amendment lies behind the proposed service limitation. That is, limit service to limit power that any one individual may accumulate and to offer greater opportunity for government service to a variety of people. I am especially concerned about the way in which our present system discourages able citizens from running for political office. Given the well-entrenched position of incumbents, other citizens interested in public service have little inducement to try to bring their talents and experience to Congress; even if they should manage to win, they will face a wall of seniority high enough to keep them from becoming influential for many years. This is not endeavor to which prudent citizens past 50, for example, are apt to commit themselves, and yet Congress would plainly be enriched by an infusion of Members with significant experience *outside* of politics.

The lame duck paralysis problem will be raised against this amendment. But the suggestion that a legislator will be somehow crippled in his final term by his inability to run again denies the prospect that he will have reached the peak of his seniority in his final term. Last termers will be sitting in the chairs of the Speaker and President Pro Tem, the floor leaders and the committee chairmen. The fact that they will be able to exert those responsibilities without carrying the burden of reelection pressures will make them more disposed to pursue the dictates of broad general interest for the country.

Service limitation amendments are not offered as a panacea for the problems of the Republic. Rather, they are offered in the spirit of Thomas Jefferson who once wrote, "I dislike, and greatly dislike * * * the abandonment in every instance of the necessity of rotation in office."⁶ Wise and judicious talent for governing is by no means endemic to (long-term) incumbents.

III. PROSPECTS FOR A CONSTITUTIONAL AMENDMENT

I favor service limitation as a way to repopulate Congress with "citizen legislators", people of more varied backgrounds who will be more apt to serve the country without a preoccupying interest in reelection. This will be the best way to bring Congress closer to the people. And there are signs that the people agree: a December 4, 1977, Gallup poll shows 60% of American voters favor limiting by law a Senator to two 6-year terms in office, and 59% favor limiting by law a Member of the House to three terms of 4 years each. These figures show an increase in support from the public for the proposals since similar polls were taken in 1964, 1966 and 1971.

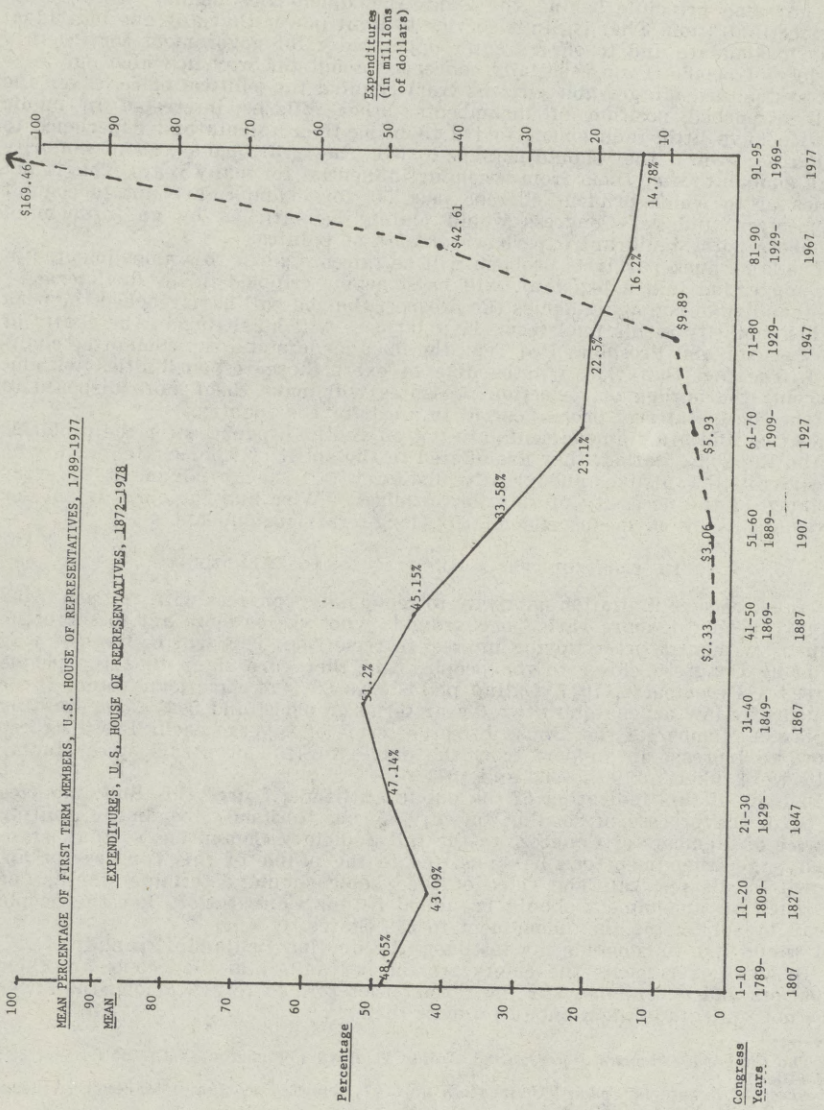
In light of this indication of the public's attitude, I urge this Subcommittee to begin the process of sending forward a constitutional amendment limiting service of Members of Congress to the full Judiciary Committee, so that, eventually, the amendment can be submitted to the people of this country for approval or disapproval. The voice of the people should determine whether or not such an amendment should be added to our Constitution. Let the people speak by submitting the amendment to the States.

I would like to conclude my testimony by quoting Benjamin Franklin.

"In free governments the rulers are the servants, and the people are their superiors and sovereigns. For the former therefore to return among the latter was not to degrade them but to promote them."⁷

⁶ *The Papers of Thomas Jefferson*, ed. Julian P. Boyd (Princeton, N.J., 1950), Vol. 12: pp. 440-411.

⁷ *Notes of Debate in Federal Convention of 1787*, reported by James Madison (Athens, Ohio: Ohio U. Press, 1960), p. 370.



MEAN PERCENTAGE OF FIRST TERM MEMBERS, U.S. HOUSE OF REPRESENTATIVES, 1789-1977
 MEAN EXPENDITURES, U.S. HOUSE OF REPRESENTATIVES, 1872-1978

Expenditures
(in millions
of dollars)

Percentage

Congress
Years

ADDENDUM TO THE TESTIMONY OF JOHN C. GARTLAND

The following questions were submitted to Mr. Gartland and his responses subsequently received for the record.

Question. Although it is fashionable to criticize legislators for being preoccupied with reelection, isn't it true that politicians are held accountable only through the electoral process?

Answer. It is true that politicians are held accountable through the electoral process. Presumably, they are elected because the voters trust their judgment on constituent-related services than they are on legislative matters. These servants vote on behalf of the district on subjects of national concern. Having won election, Members should get down to the business at hand—and that is *legislating*; this is their constitutional duty, it is *not* to continue campaigning. As I point out in my written testimony, Members' staffs are spending more time ices, enhanced and made more sophisticated by the use of office computers, are invaluable in winning reelection; their growth seems directly related to the rise in incumbent return to Congress. A Member of Congress should concentrate the powers and resources of his office on legislation; his efforts as a representative for the people in the sphere of public policy-making should determine his fitness to hold office, and on his voting record should he be held accountable—not on his skills as an ombudsman or errand boy for his constituents.

Question. Do you see any relationship between term limitation and campaign spending reforms?

Answer. In principle, there is a relationship. Advocates of term limitation and advocates of campaign spending reforms (i.e. taxpayer-financed campaigns) are concerned about the financial advantages incumbents have upon entering a campaign. The financial advantages come both as perquisites of office and special interest group contributions; they are very difficult to overcome by a challenger. But with or without term limitation, a challenger will still come out on the short end financially if we place a limit on the amount that can be spent by a candidate for public office, because an incumbent will always have inherent, financial advantages. So, I do not think campaign spending reforms or campaign spending limitations will solve the incumbency problem. The problem can only be alleviated by limiting congressional service to restore true competition in the political marketplace.

Question. It is fair to say that in your view there is a direct relationship between federal government activity and term limitations? That is, would you predict a decline in the role of the federal government if S.J. Res. 27 or 28 were passed?

Answer. I do believe there would be a decline in federal government activity under term limitation. Judging from public opinion polls and from the campaign platforms of candidates, including the platforms of incumbents themselves, people *want* less intrusion by the federal government in their private lives. By limiting terms and by attracting to government service more people who've experienced firsthand the effects of federal intrusion through laws and regulations, I believe legislators who knew they'd have to return to the private sector to live under these laws and regulations would be more apt to examine closely the ramifications of legislation proposed while they serve in office. And, consequently, I think we'd see a decline in the kind of laws which are often the cause for harassment to the individuals, laws promoted by career politicians who have had little or no experience working in the private sector economy. Much legislation is introduced as a reaction to win campaign support, and is not necessarily in the national interest. By eliminating a certain amount of reelection pressure through term limitation, this kind of "vote getting" legislation should also decline.

Question. How do you explain the fact that politics in the nineteenth century was marked by a high degree of turnover and fierce political competition, while the twentieth century has seen the actual decline of political competition and the rise of the "Incumbency Factor"?

Answer. In large part, I believe the rise in the "incumbency factor" has been due to the rise in expenditures on the legislative branch of government. And directly related to the rise in expenditures has been the rise in constituent-related services. By way of example, let's look at what's happened to expenditures on the House of Representatives. From the 1870's to 1920's, House expen-

ditures ranged from two to six million dollars. But approaching the 1950's, expenditures began to soar—from ten to over one hundred seventy million dollars today. The rate of incumbent return has risen as dramatically, and now settles in the ninety per cent range. What can we expect in the years ahead? I would predict more of the same; the total congressional budget has tripled in five years to over one billion dollars.

Question. Have you any hard empirical evidence that the citizen-legislator would do a better job at legislating than the professional legislator?

Answer. Not at this time. This is one of the reasons the Foundation for the Study of Presidential and Congressional Terms was established—to discover what, if any, empirical evidence there is that citizen-legislators would do a better job of legislating than the professional politicians.

Question. Do you agree that the term limitation issue really appeals to people's distrust of politicians generally, and as such, helps sow the very kinds of suspicions it is supposed to eliminate?

Answer. No, I do not for two reasons. The first is that there has been an increase, albeit slight, in the public's approval rating of Congress since 1976. One of the political scientists who testified on Tuesday attributed this rise in approval to the fact that there were more fresh faces in Congress. This relationship between a higher approval for Congress and more new Members seems to indicate that the voters are encouraged by an influx of new faces and fresh ideas in Congress—something that would be assured under term limitation.

Also, when the public was asked by a Gallup survey in December of last year whether they approved or disapproved limiting Senators to two six-year terms and Representatives to three four-year terms, the response was 60 per cent approval and 59 percent approval, respectively. This would indicate that the voters think term limitation is a healthy idea. I think the results show the people believe term limitation is a good alternative to the present system, which has fostered distrust and suspicion.

Senator SCOTT. Thank you very much. The committee is adjourned.
[Whereupon at 11:05 a.m., the subcommittee was adjourned.]

APPENDIX

PART I—ADDITIONAL CORRESPONDENCE AND STATEMENTS

DEPARTMENT OF JUSTICE,
Washington, D.C. June 29, 1977.

HON. JAMES O. EASTLAND
*Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S.J. Res. 27, proposing an amendment to the Constitution of the United States with respect to the number of terms of office which Members of the Senate and the House of Representatives may serve.

The Department of Justice defers to the views of the Congress as to whether the Constitution should be amended in this fashion.

The Office of Management and Budget has advised that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

DEPARTMENT OF JUSTICE,
Washington, D.C. June 29, 1977.

HON. JAMES O. EASTLAND
*Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S.J. Res. 28, proposing an amendment to the Constitution to limit the number of terms that may be served by Senators and Congressmen.

The Department of Justice defers to the views of the Congress as to whether the Constitution should be amended in this fashion.

The Office of Management and Budget has advised that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,
*Assistant Attorney General,
Office of Legislative Affairs.*

PREPARED STATEMENT BY GLENN BARKAN, PROFESSOR OF POLITICAL SCIENCE,
AQUINAS COLLEGE

I would like to thank this Committee, and in particular its acting Chairman, Senator Dennis DeConcini, for inviting my remarks on the Amendments under consideration during these hearings. Senator DeConcini and his staff went out of their way to request this testimony, well aware that I would oppose the Resolution he has introduced.

Please allow me one additional personal note. If anything I have to say sheds some light on your considerations, it is likely due to the lessons I learned from my teacher, the late Martin Diamond. I hope that I have been able to recall

just a portion of Martin's soundness of thought and clarity of expression. The circumstances of his passing, which I am sure many of you recall, make your invitation to me that much more honored.

In my opinion, a Constitutional Amendment to limit the number of terms of office to be held by Representatives and Senators would weaken the ability of the public to insure good government. I base this opinion upon the thought of those who framed the Constitution and argued for its ratification, upon the experience of the national legislature for one hundred-ninety years, and finally upon my own thoughts about the Constitution and democracy. Information gleaned from these three sources coincide at a point which leads me to strongly question the passage of this Amendment. In the following pages, I hope to both make clear the reasons I oppose this Amendment and also to anticipate the arguments of those who speak in its favor. In short, for the reasons discussed below, it appears to me that the proposed Amendment will weaken the ability of the people to direct their government, without yielding any corresponding improvements. It will make it less democratic and not any more just. It creates problems, but solves none.

With reference to the Constitution and its ratification proponents, the clearest discussion of reasons for not limiting the number of terms of elected representatives is made by James Madison in the *Federalist Papers*, especially numbers 51 through 63. As Madison was a principle author of the Constitution, and one of its wisest and most articulate defenders, it might be instructive to follow his reasoning.

In the *Federalist*, Madison suggests that the Constitution organizes a government which will function well, and yield good public policy, even if those in government occasionally exhibit such human failings as ambition or greed. In referring to the need for a necessary partition of power among several departments, Madison says that this will be accomplished by "so contriving the interior structure of government, as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Men, on occasion, exhibit a lack of good motives. But this defect can be remedied by arranging opposite and rival interests in such a way that good government will result even from less than good motives. (*Federalist* No. 51) The Constitution employs this same idea with regard to representation.

The particular problem with which we are concerned goes to the heart of the principles of democracy. How do we insure that our representatives represent us? How do we insure that they at least consider the thought, opinion, and desire of their constituents even if they are not obliged to concur with them? The answer which the constitution offers and the *Federalist* defends, is that accountability to the public is insured by holding fair elections at relatively short intervals. That Representatives were to be elected every two years, rather than every year or every three years was somewhat arbitrary, although a reasonable justification for the choice was offered by Madison in *Federalist* #53. What was more important, however, was that the term be relatively short and that elections occur at a regular interval.

By establishing the term of office for the Senators at six years, the Framers seemed to be trying to create a tribunal which while still democratic, was less closely tied to the immediate demands of the public. If we look at other characteristics of the Constitution's requirements for election to the Senate such as method of appointment, age, and its particular duties, we also find evidence that they thought the Senate would be more stable and experienced and broaded in perspective than the House. Of these, the six year term was most important. It would be a limited term, and regular, but the Senate's members would not be called as often for reconfirmation, thus allowing them somewhat greater flexibility to balance their views with that of the public.

All this, of course, is reasonably clear and straight forward. But why is it important? Regular terms of office are important in order that representatives come before the public and can be judged as to their performance. Knowing they will be judged, representatives were expected to act in such a way that they will be re-elected. Regular elections would be a way to insure that public officials would not become detached from those they represent.

The Constitutional Amendment under discussion before this Committee would have the necessary effect of creating lame duck terms for those legislators who reach the prescribed limit of terms in office. Those members who are elected for the final time, would no longer have the potential to be re-elected. It was this potential for re-election upon which the Framers depended to motivate

elected officials. Taking that potential away, particularly for half of the proposed twelve year Senate eligibility, would severely limit the fashion in which the Framers thought the Constitution would work.

The second area which I wish to discuss regarding the proposed Amendment, is how this theory of the Framers has worked in practice over the past one hundred-ninety years. I would submit that the potential for re-election has motivated most legislators to be concerned with the opinions and interests of their constituents most of the time. This is not to say that legislators are, or should be bound to whatever opinion is expressed by a majority of their constituents, but rather that they should be concerned with that opinion, seek to know what it is, and consider it when making decisions. And the most effective way to insure that representatives consider the opinions and interests of their constituents is to continue to retain the potential for re-election.

Given the short time I had available to prepare testimony for these hearings, I was not able to prepare or review the vast amount of scholarly material on congressional performance. I would like, however, to offer the following generalizations which I have not tested.

First, that newly elected legislators, those who have not yet established their continued re-election as something akin to a birthright, pay more and closer attention to voices from back home than do veterans.

Second, as a general rule, those representatives whose districts are roughly equally balanced as to party and ideology, and those representatives who have won closely contested races, will keep in closer touch with their constituents, than do those who have faced, and expect to face, little or no opposition.

And finally, when a legislator decides that he or she will not run again, their concern with the opinions of the folks back home are weighed less heavily in the decisions which must be made. I do want to emphasize two important points about these generalizations. First, as noted above, these are hypothesis which I expect, if tested, would prove to be accurate. They have not, however, been tested. Second, I would surely expect to find exceptions to these rules, but on balance, I think they would hold true for most cases.

And, should these generalizations prove to be accurate, it is not to say that insecure representatives are necessarily better than those who are in a position to hold a seat as long as they want. Rather, I am merely suggesting that those representatives who face a difficult election are less likely to fail to consider their constituents when reaching a decision.

Should either of the proposed Amendments (S.J. Res. 27 or S.J. Res. 28) be adopted, the consequent lame duck terms which they create are likely to elicit behavior similar to that discussed above. The potential of facing a difficult election would no longer exist. The motivation to consider popular opinion would no longer apply. The concern of a legislator with the support of voters would lose its foundation. In a sense, the legislator would have a free ride. How many times a day does a representative consider what a vote or a motion, or the sponsorship of a bill, will mean to his or her popularity? If the proposed Amendment is adopted, this consideration will no longer matter, and it is much less likely that the consideration will take place.

To summarize my discussion to this point, I am arguing that the adoption of this Amendment would make representatives less accountable, and the system less democratic.

Up to this point, I have considered the effect of the proposed Amendment in creating a lame duck situation. What is at least as important is its effect on the ability of the voters to choose, and reconfirm, the person whom they want to represent them. To force the retirement of a representative who has served the people well is an additional way of hindering rule by the people. Should this or a similar Amendment be adopted, we will undoubtedly find ourselves in the position of losing legislators in the prime of their lives and abilities, simply because they have already served twelve years. Very few of us are irreplaceable, and it certainly is true that adequate legislators can be found with equal skills and the potential to make vital contributions to our Nation. But why should we force ourselves into such a search? The effect of this Amendment would be to place ourselves in the position of dismissing our best workers and then hoping that their replacements will be as good. Except that we will have to offer them several years of on-the-job training before we can expect them to do as good a job as the people they are replacing.

Even if we put aside, for the moment, the effects such a policy might have on our legislators, it would appear likely to have a negative effect on the quality

of the legislature, and its public policy output. If you will permit me an awkwardly modified version of the Peter Principle, it might read, "remove from office those people who have acquired the skill and experience to do a good job." I fail to understand the logic of such a system.

Another aspect of the proposed Amendment which leaves me with some concern is the restrictions it places upon the choices available to the voters. The proposed plan would deny citizens the ability to retain in office a representative who they want to represent them. A legislator who has worked efficiently and studiously to represent to the nation their opinions and interests will no longer be able to do so. Thus this Amendment restricts the public's will, and thus restricts democracy as it has been traditionally understood in the United States. Reasons offered for such a restriction fail to justify such a severe measure.

The argument presented to this point suggest that the proposed Amendment would lead to a less democratic legislative system. It would do this by restricting the ability of the citizens to hold their representatives accountable for their actions by creating lame duck terms in office. It would do this by preventing able and responsive legislators from continuing in office. It would do this by not allowing voters to choose a representative who, based on experience, has proven to be an effective and able and representative legislator. And finally, this Amendment modifies the essence of the political thinking of those who improve the system, I would suggest that it be undertaken only after careful designed the Constitution. While such tampering certainly might be able to consideration is given to the ways which this improvement is to be achieved.

I would expect that those who advocate a plan which so clearly trifles with the essence of our democratic system can present a convincing argument in favor of the Amendment. It would appear absolutely necessary that they demonstrate two major points. First, that the advantages to be gained by this Amendment strongly outweigh the serious negative effect it would have on the democratic process. Second, they should be able to demonstrate that whatever the problem is which the Amendment under discussion seeks to solve, a less severe remedy would not be equally effective. I would submit that based upon the arguments with which I am familiar which have been presented on behalf of this Amendment, neither condition has been met.

In my judgment, the major effect which those who support this Amendment wish it to have is to encourage an increase in the number of people in the legislature by forcing the retirement of those who have been in office for twelve or fourteen years. The argument runs somewhat as follows: We assume that the greater the turnover of legislators, the more new and fresh ideas we will have for public policy. Since incumbency carries with it so many advantages in gaining re-election, the only way we can successfully encourage more frequent changes among those who hold office, is to force legislators to retire after a certain number of terms. As best I can understand, the highest goal of the Amendment is to modify the system in order to acquire more, and presumably better, new and different ideas for public policy. While this is truly a noble goal, I am not sure that those who argue in its favor have demonstrated, or even are able to demonstrate, that this Amendment would bring this about. While perhaps it could be argued that greater numbers of legislators would invariably provide more ideas than could fewer legislators, I am not sure that this is significant. What might be significant would be to demonstrate that the Amendment would have the effect of generating better ideas. But this does not appear to be the case in this instance. More ideas do not mean better ideas.

In returning to the criteria noted above, it seems clear that this reason offered for adopting the Amendment fails to measure up. In return for limiting the voters' choices regarding who can be elected, which is to say, balanced against a weakening of democracy, we stand to gain the undemonstrated possibility of new and better ideas for public policy. On balance, I would opt for democracy.

With regard to the second criteria, which asks whether we can accomplish as much improvement with a less severe measure, I think the answer is yes, which means the Amendment should not be supported. While truly exceptional ideas for improvements of public policy are not found under every stone, they are around. I am sure that everyone reading this testimony has several good ideas for public policy, and the resources to get more. Whatever weakness our legislative system has, it is not a dearth of good ideas. Rather I would submit, that the problems are generally found in the process of translating the ideas

into public policy. Certainly the generation of good legislative ideas could be accomplished in better ways than through the Amendment under discussion.

Perhaps I fail to fully understand the thrust of this Amendment. But to the extent that I have been able to consider what is being considered, and the implications of this change, I am much more impressed with its negative effects than its positive ones. Democracy is weakened. Public accountability is weakened. And our ability to take advantage of the wisdom and experience of our legislators is weakened. If the case could be made that an idealized citizen-legislator could improve our government and the public policy it produces, I would applaud the proposed change. In my opinion, however, not only has the case not been made, it cannot be made.

Thank you very much for your interest and consideration of my thoughts.

PREPARED STATEMENT OF SENATOR MARK O. HATFIELD, A U.S. SENATOR
FROM THE STATE OF OREGON

It is a pleasure for me to have an opportunity to express my support for legislation limiting the tenure of Members of Congress. It may seem a bit strange that a Senator who supports a two-term limit on Senatorial seats is himself seeking a third term of office. On the contrary, a Congressional Representative in the present political system robs his constituency of its voice in government if he or she does not seek reelection as many times as possible. A Member cannot be criticized for seeking by the present rules of the political game, to provide those he or she represents with the maximum political muscle possible. In the existing milieu, political power is a function of longevity. A long tenure results in ever-increasing control over the power within our legislative bodies. I believe limiting Senators to two consecutive six year terms and limiting Representatives to six consecutive two year terms would make our political system more democratic.

We need a greater sense among our citizens of participating in government. If Congressional seats changed hands more often, a greater sense of opportunity to be involved would develop. Opportunity, in turn would breed interest—and interest in government is a scarce commodity these days.

Legislators in the Congress learn quickly about their political importance. Often they arrive in Washington, D.C. expecting to turn things upside down, to make the voice of the people in their State or District heard. Suddenly they are faced with the concentration of power in a few hands, and very quickly their goal becomes the accumulation of power rather than the representation of voters. It is the ability to maintain legislative seats indefinitely that permits power centers to develop around Members with the longest tenure and the most contacts. But does this process enhance the democratic and representative nature of our government? I believe it does not. Limiting the term of service as a means to control power and to insure responsiveness is hardly a new idea. We already limit the terms a President may serve. Twenty-seven States limit the tenure of their Governors. I ran for the office of Governor in Oregon knowing that my service was specifically limited by the State Constitution to two terms. This had no effect on my desire to serve, nor did it result in any misgivings about what I could accomplish in office.

Civics classes teach that Congress is guided by the democratic principle of majority rule. In reality, the situation is very different. The filibuster procedure in the Senate enables any one-third of the body to thwart not just the will of the majority, but that of two-thirds of the Senate. Committee chairmen also can deny majority rule—often they can decide what does and does not reach the floor for a vote and in what form. The system of seniority insures that power goes to those who are the oldest and those from "safe" districts, often one-party districts. No other free world legislature and no other State legislature is bound by the seniority system.

Seniority is not intrinsic to our system. In fact, the official rules of the Senate, adopted in 1789, state:

"All committees shall be appointed by ballot and a plurality of votes shall make a choice."

Yet, the unwritten rule of the Congress for committee assignments, chairmanships, and even office space is the dictate of seniority and of party membership. With seniority restricted, it is likely that the other reforms might follow. Members who are elected out of concern for reform in specific areas in our society would be able to bring those reforms about more quickly. One institu-

tion that could benefit from such change is the United States Senate itself. The Congress is only now entering the 20th Century and becoming capable of dealing with contemporary problems. The lack of new faces, the concentration of power and the seniority system have held the institution back from providing services, equipment and information necessary for the accomplishment of its tasks.

New people and new ideas are always needed. One way to assure that these people and ideas enter the national legislative area is to put a limit on service, thereby providing the turnover to assure such opportunities. This change would benefit the many able men and women already serving in one of the two Houses of Congress as well. The sabbatical concept has long been employed by colleges and universities who recognize the healthy aspects of allowing, or even forcing, personnel to refresh their knowledge and not to become insular. Many industries are beginning to employ the same reasoning and are sending their personnel on sabbaticals that take them abroad or into government or back to school. The healthy effects of an enforced sabbatical for Members of Congress would surely be reflected in a better awareness of their constituencies and a better awareness of their world. Washington, D.C. is, after all, a company town and the company is the Federal Government. It is in the interests of keeping the Government responsive to the people that we should require Members of Congress to reacquaint themselves with their State, their District and their constituents, and to be removed periodically from the daily pressures of congressional life, gaining new perspectives and ideas.

Limitation of tenure produces an opportunity for public service, pure and simple. We are all too well aware that the demands on a Senator or Representative are enormous—there is never enough time. Committee meetings, votes and hearings—the business of Congress—suffer most. In all candor, much of the congressional day is spent pursuing those tasks essential to reelection—heavy concentration on mail, press activities, meeting lobbyists and constituents, and speaking before numerous groups on every imaginable subject. Of course, these are immensely important tasks. Yet, the pressures of perpetual reelection push them to unrealistic lengths. Unfortunately, what often suffers is the time devoted to the actual legislative process. One solution is to limit tenure and thereby assure that a portion of the legislative body would be relatively free from the demands of reelection to concentrate on legislative activity.

In other words, the changes contemplated in the legislation being considered by this Committee, are not simply steps toward more democratic government, but toward better, more effective government, as well.

Historically, it appears that the framers of our Constitution ignored the problem of tenure, simply because they could not imagine anyone willing to serve indefinitely. They did not, however, ignore the issue of the length of Congressional terms, which were reduced after a long debate from nine to six years for Senator and from three to two years for Representatives. One member of the Constitutional Convention, General Thomas Pickney, made this point:

"If Senators should be appointed for a long term, they would settle in the State where they exercised their functions; and would in a little time be rather the representatives of that than the State's appointing them."

Mr. Elbridge Gerry stated:

"A longer term would defeat itself. It would never be adopted by the people."

The legitimacy of these reasons for opposition to the long term have been borne out in our experience.

We are now hearing calls for a government attuned to citizen needs and desires—a citizen government. It is time to take the positive step of limiting Congressional terms of office. Though this proposal may not be greeted today with any great enthusiasm here in the Congress, I believe the people of our country would give it their overwhelming support. They felt estranged from us, their elected representatives.

Thank you for this opportunity to share these thoughts with the Committee.

PREPARED STATEMENT BY HON. ELWOOD H. HILLIS, A U.S. REPRESENTATIVE IN
CONGRESS FROM THE STATE OF INDIANA

Thank you, Mr. Chairman and Members of the Subcommittee. I believe very strongly that changing and/or limiting the terms of Members of the House and Senate is an idea whose time has come.

When I first began to research the possibilities of introducing a Constitutional Amendment to limit or change the terms of Representatives and Senators, I was surprised to learn that this was not at all a new idea. In fact, the first amendment which was designed to alter the term of Members of Congress was introduced in 1789—only two years after the adoption of the Constitution. However, more recently there has been a renewed interest in altering the terms of those of us who serve in the Congress. Presidents Truman, Eisenhower, Johnson, and Nixon have all openly supported different proposed amendments. Today, there are numerous proposals pending before the House and Senate Judiciary Committees designed to alter the terms of office in some manner.

One of these proposed Constitutional Amendments in H.J. Res. 538 which I introduced on June 28, 1977. Basically, H.J. Res. 538 has three provisions. My bill would limit service in the House of Representatives to twelve years, service in the Senate to twelve years, and service of Members holding office in both the House and Senate to eighteen years.

The optimum number of terms to which a Member of Congress or a Senator should be limited is debatable. However, it would only seem fair to exempt service occurring before the date of ratification of any limiting amendment from consideration. H.J. Res. 538 has such a provision.

I believe my motives in introducing H.J. Res. 538 are basically the same as those of other Members and Senators who have introduced similar legislation. First, it should be noted that the reasoning behind a two year term in the House is to insure that Representatives maintain close contact with his or her constituents. In my opinion, it is impossible to maintain for an extended number of years a commonality of interest with constituents regardless of how hard a Member works at it. Irrespective of how often he must face reelection, the nature of the job changes the perspectives of those who hold office for very long. Personally, I travel back to my hometown of Kokomo, Indiana every weekend. My family lives there and my home is Indiana, not Washington, D.C. However, I realize that even though I spend a good deal of time in my district talking with constituents from all walks of life, we view the world in somewhat different terms. I attribute that to my service as a Member of Congress. While I certainly believe I know how the people in central Indiana feel and think about national matters, and while I am confident that I can continue to represent the general consensus of that area, I also realize that the longer I remain in Congress the harder it will be for me to view the world in the same general terms as my constituents.

The common bond between an elected official and his constituents is the true backbone to any working democracy. This commonality of interest is by far more important than having an "experienced legislature". By limiting the term of office for both Representatives and Senators, there will be more citizen-legislators elected, and the commonality between those of us who hold office and our constituents will remain strong.

The concept of limiting the number of terms for elected officials is not new. It is not an untried idea. The 22nd Amendment of the Constitution limits the President to two terms. Many states have some type of similar limit on gubernatorial terms. This concept is an accepted aspect of our form of government and needs to be extended to the Congress.

There is another aspect of this issue which needs to be discussed and reviewed very carefully. There can be no question that an incumbent carries with him an advantage in running against any opponent. Further, and more importantly, that advantage continues to grow. Today, Members of the House and Senate have available to them the latest computer technology which, through the use of the franking privilege, allows an incumbent to contact thousands of constituents every year. Since I came to Congress in 1971, mass mailings have become noticeably more sophisticated allowing the incumbent to be not only more responsive to the needs and concerns of constituents, but to further increase name recognition—a very important advantage at the polls.

Professional staffs, office expenses, franking privileges, and media attention all help an incumbent campaign, to some degree, 365 days a year, every year. As incumbents become safer or more entrenched in their jobs, the less likely they are to worry about whether they are truly representing the opinions of their constituents.

Whenever one discusses limiting the number of terms of a Representative or Senator, inevitably the subject of increasing the number of years per term for Representative or Senator, inevitably the subject of increasing the number of

years per term for Representatives comes under consideration. I do not believe there is a magic number of years a Member should go without having to face re-election. Personally, I believe there are two obvious and good alternatives to the status quo. The first alternative would be to have a Member's term four years, coterminous with the President's. The second alternative would be to have the term run three years, with one-half of the Senate being up for re-election every three years, and the President's term extended to six years. Of course, there are several modifications which can be made in these two alternatives; however, the point to be stressed is that a two year term is too short and should be extended. The elimination of the two year term would greatly add to the efficiency of the Congress by creating a situation in which more complex legislation can be fully evaluated without major interruptions. I do not believe that the commonality of interest between Representatives and their constituents would be reduced by replacing the two year term with a three or four year term.

As anyone who has held a public office for any length of time knows it is a way of life that is difficult to give up. Holding public office is a great honor and is always very interesting. The fast pace, the excitement of being a part of the action, the attention and privileges associated with the job, and the personal fulfillment one experiences in holding public office, all add to the difficulties of leaving it. However, whenever a Member of Congress or a Senator is unable, without any hesitation or regret, to turn his back and walk away from the job in order to allow others an opportunity to bring their ideas, it is time he or she be replaced. None of us who serve in Congress is blessed with any special wisdom or knowledge which separates us from the crowds. There will always be new and talented people ready to replace each of us.

Changing times creates new problems and situations which must be addressed and answered by new ideas and new beliefs. A limit on the number of terms for Congressmen and Senators will allow those new ideas and beliefs an opportunity to be tried. Hopefully, the 95th Congress can begin to modernize the federal government in preparation for the 21st Century. I believe a Constitutional limit on the number of terms a Congressman or Senator can serve would be an excellent start on that modernizing effort.

PREPARED STATEMENT BY SENATOR MALCOLM WALLOP, A U.S. SENATOR
FROM THE STATE OF WYOMING

Mr. Chairman. There have been in this country for the last couple of decades serious attempts at election reform; yet no matter how we try to reform the election process, it profoundly favors the incumbent over the challenger. Too seldom do new ideas and innovative plans meet the pressing needs of our society. An amendment to our Constitution limiting the number of years a Senator or Congressman may serve will open the process of Government service to men and women of all ages, at any stage in their lives. There is nothing magic about 12 years or 18 years or fewer. The magic is in the idea.

Constant renewal of ideas and goals will emerge. The grassroots thinking reflected by those in the accelerated cycle will provide the zephyrs new ideas and changing attitudes in Congress. The revolving process will do nothing but good, both for the public's perception of Congress and Congress' perception of itself.

A recent Gallup poll indicates that 60 percent of the eligible American voters favor some law limiting Senators and Representatives to a maximum of 12 years in office. A similar Gallup poll reveals that Senators and Congressmen rate relatively low on a list of 20 occupations in terms of both honesty and ethical standards. Could this mistrust of Senate and House of Representatives arise because we no longer perceive ourselves as "citizen legislators"?

Can the people's low regard of us as an institution result from their perception of the members of both Houses as no longer being "of the people"? When our founding fathers created our system of government, they envisioned a Congress made up of citizen legislators who could bring their various expertise to the nation's capital and broadly represent the people of this country. It is even more imperative in an age of increasing interdependence and complexity that Congress once again be responsive to the people by applying fresh ideas and grassroots perception to the problems of America.

With unlimited congressional terms, we have risked breeding a body of professional politicians manipulating a seniority system that is at times undemo-

cratic and always unequally representative. In all probability, only a constitutional limit on terms can bring the recurring change necessary to instill new faces and new ideas in a stagnant system. Self-restraint, such as our early presidents subscribed to, has not worked.

I am not unaware of the problems that do exist in trying to limit the terms of Congress under the present election laws. With the total membership of the House being elected at the same time, I do not essentially advocate a total change every 12 years for the House of Representatives. Staggered terms can be worked out.

But within the Senate a different circumstance exists, and it would mean approximately three times a century we would have all new ideas in the arena. The insulation from potentially great conflicts of interest would be secure; the outlook at once secure and fresh.

I have heard our Congress referred to as a venerable body, and I would hope that the venerable members are not apprehensive about this proposal. There is no reason for apprehension when the process that will be triggered, if this amendment should ever come to pass, is viewed with dispassion. Should the amendment pass by vote of two-thirds of both Houses this year and the states' ratification take a full 7 years, and I have no doubt that it will, it would be 20 years before the first member of either body who is now sitting would be specifically affected.

One can think of the talent lost. But is it lost from the state or the country? On the contrary, the skills and knowledge could be used in the executive branch of the Federal Government, the executive and legislative branches of the state and local governments, and in service throughout the country whether at home or on the national level.

Lastly, I think the desire for re-election to the second term would be sublimated to more philosophical views and the long-range interests of the country with the limitation of terms.

After a legislative career, Senators and Representatives could go home once again to live with the system they helped create. Yes, and live among the constituents whose interests they were serving. And above all, add wisdom to the conversations of politics as they go through the course of time. They who served even once—at whatever time in their life—will never cease to serve, wherever they may be in their country.

In closing, I would like to say that the number of years we have selected to limit the terms are not magic. It is only a step in the direction of real election reform and the dialogue surrounding it.

There is one caveat: Never should any Senator's endorsement of some limitation on terms be held as the standard for that Senator until it is the standard for all Senators. No states' relative posture should be penalized under the existing system by insisting that two standards apply: One for those who support the concept of limitation; and one for those who resist the winds of change and reform.

PREPARED STATEMENT BY HON. EDWARD ZORINSKY, A U.S. SENATOR FROM THE STATE OF NEBRASKA

A Constitutional amendment limiting members of the Senate and House of Representatives to a maximum of 14 years for Senators and 15 years for Representatives would have many beneficial results.

Incumbents automatically have special advantages. They find it easier to raise money and get press coverage; and the longer they serve, the more votes they receive based mainly on name recognition. Limiting terms of office would force voters to look more closely at the issues, particularly when new candidates are running.

The desire for survival by Members of Congress is a strong motivating force, as is the case with all persons. Whether consciously or not, the question of how a particular vote will affect their political career is a determining factor in the legislative decisions made by most elected officials.

With a limitation on their terms of office, Senators and Congressmen would be more likely to place some political considerations aside and decide an issue more on its merits. In such an atmosphere, Members of Congress would be less susceptible to pressure from so-called special interest groups, and a greater degree of unbiased judgment could be exercised.

Another benefit to the American people would result in periodic changes in Committee Chairmanships. The two-term limit on the Presidency serves, among other things, to prevent the possibility of a president developing unwarranted power. This could also hold true for Committee Chairmen, who have achieved positions of great power mainly by virtue of longevity. A Committee whose chairmanship and membership remain essentially the same over a long period can come to reflect only one point of view rather than seeing a balanced and more objective picture. One new member who may question the programs will have little influence, and someone not on the committee may have no influence at all. But a periodic changing of Committee makeup can result in fresh approaches and more thorough evaluations rather than routine approvals.

It may be argued that the experience developed by years in office should not be discarded lightly. However, I feel that 14 to 15 years is ample time to gain and use experience. With all the waste and inefficiency that now exists, new inquisitive members of Congress demanding careful justification of programs would strengthen government. It would also give other qualified leaders an opportunity to serve. A steady influx of persons with fresh ideas would bring new insight into the legislative process and help overcome Congressional lethargy.

In general, I feel that this proposed Constitutional amendment would result in changes in our government that would move it toward an atmosphere worthy of earning the trust and respect of the citizens of this country.



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LIMITING CONGRESSIONAL TENURE: A HISTORY AND ANALYSIS

Whether or not Members of Congress should be limited in their number of terms was a question posed as early as 1777. The Continental Congress, under the Articles of Confederation, responded to the question with the adoption of a proposal introduced by John Dickinson (Del.) which limited a delegate to three years service in any six-year period. Ten years later when the Constitutional Convention met at Philadelphia (1787), the debate regarding congressional terms was focused on the length of the terms and no limit was placed on the number of terms Members could serve. But during the First Congress the limitation question reappeared as attempts were made to limit service in the House and the Senate. One measure would have restricted to six the number of years in succession that a Representative could serve during an eight-year period. The other resolution would have reduced the Senator's term to one year and restricted him to five consecutive years service during a six-year period.

Limiting congressional service by constitutional amendment then lay virtually dormant for nearly a century and a half. ^{1/} An explanation for

^{1/} There is some discrepancy among secondary sources as to a resolution introduced by Rep. Treloar in 1896 and two "similar" resolutions introduced by Rep. Norris in 1904 and 1906. Some sources indicate that the measures proposed an eight-year term for Senators with no eligibility for re-election. The sources do not specify the numbers of the measures; however, if the resolutions referred to are: H.J. Res. 208, H.J. Res. 166 and H.J. Res. 69 respectively, an examination of the original documents shows no specific provision in any of the measures which limits the number of terms a Senator may serve.

the issue's dormancy may stem from two contrasting views of congressional service, first as a brief period of civic duty and then as an ongoing political career. The former view was the general perception through the mid 1860s with the tradition being to serve only four years in the House and only six years in the Senate. This tradition of short service in Congress was usually adhered to. It coincided with the view that service in Congress was a temporary situation in route to some other occupation. As a result, Members may have felt it unnecessary to limit service with a constitutional amendment, since the tradition of limited service was so frequently observed.

Ironically, the reverse concept of congressional service as an ongoing political career may be an explanation for the continued dormancy of the limitation issue from the mid 1860's well into the twentieth century. A number of factors such as the establishment of a network of standing committees, organizational rules, the increasing role of seniority in the selection of committee chairmen, recognition of expertise and specialization in allocating status among Members, and emerging roles of the Federal Government and Members of Congress made congressional service more attractive. Members began to stay in Congress longer and congressional service came to be viewed not so much as a temporary situation but as the primary destination in Members' careers.

As the short-service tradition declined and congressional service was made more attractive, public and congressional sentiment leaned toward encouraging rather than discouraging longevity in Congress. ^{2/} Thus, Members may have felt it undesirable to limit service with a constitutional amendment with so much internal and external support for longevity of service in Congress at work.

By the early 1950s with dissatisfaction with the seniority system becoming apparent President Harry S. Truman joined the ranks of those who supported limiting congressional tenure. In 1951 Truman proposed a twelve-year limit on service in each chamber of Congress. But the proposal was viewed by many as an attack on seniority and caused much controversy. It did not receive any congressional action. However, that same year, the Twenty-second Amendment, which limited the President to two terms, was ratified.

The late 1950s and 1960s saw an increase in interest in proposals similar to Truman's, though such proposals were still few in number when compared to the numerous proposals that were being introduced to

^{2/} Such sentiment was evident as late as 1947, when during debate on the proposed Twenty-second Amendment (which limited the President to two terms), Senator W. Lee O'Daniel (D-Tex.) offered an amendment to limit all elected officials to a single term of six years. His amendment was defeated in a vote of 82-1, with only Senator O'Daniel voting in Favor.

Foundation for the Study of Presidential and Congressional Terms. Constitutional background and legislative history of proposals to limit the number of years served by Members of the House and Members of the Senate. Washington, D.C., p. 2.

lengthen congressional terms, particularly the House term. Rep. Thomas Curtis (R-Mo.) introduced several amendments to limit Senators to two terms of six years each, and Representatives to six terms of two years each, but the debate on congressional terms continued to be focused on length of service.

In 1963 former President Dwight D. Eisenhower advocated a limit of twelve years service for Congressmen stating: "what is good for the President might very well be good for Congress." 3/ (Eisenhower was referring to the Twenty-second Amendment which limits the President to two terms). A few days later (January 24, 1963) President Kennedy, when asked to comment on Eisenhower's statement in support of limited congressional terms responded: "It's the sort of proposal I may advance in a post presidential period, but not right now." 4/

Throughout the 1960s and the early 1970s limitation if raised at all, continued to lay beneath the controversy involving lengthening terms, particularly the House term. Indeed, from 1929 to 1972 only 14 attempts were made to limit House tenure, with five calling for a limit of six years in either and/or both the House and Senate, one to limit House service to two six-year terms, six to limit House service to six consecutive two-year terms, one to limit House service

3/ Berman, Daniel M. In Congress assembled: the legislative process in the national government. New York: MacMillan [1964] p. 135.

4/ Ibid.

to two six-year terms and one to limit House service to nine full two-year terms. 5/ In addition, only 15 amendments were introduced 1926 to 1972 to limit the number of years a Senator could serve with 7 calling for one six-year term, 6 for two six-year terms, and 2 for three six-year terms. 6/

Only two of the 15 amendments to limit Senate service are not duplicated among the 14 amendments to limit House service, and only one of the 14 to limit House service is not duplicated among the 15 proposals to limit Senate service. Consequently, a total of 16 different measures were introduced during this period to limit service in either and/or both the House and Senate. As a comparison, four times that many resolutions to lengthen the House term were introduced from 1929 to 1963 and one and a half times as many resolutions to lengthen the House term were introduced in the

5/ The resolutions are as follows: 78th Congress -- H.J. Res. 172, S.J. Res. 86; 79th Congress -- S.J. Res. 21, H.J. Res. 229; 80th Congress -- S.J. Res. 18; 83rd Congress -- H.J. Res. 505; 84th Congress -- H.J. Res. 271; 86th Congress -- H.J. Res. 253; 88th Congress -- H.J. Res. 164, H.J. Res. 1025; 89th Congress -- H.J. Res. 182; and 92nd Congress -- S.J. Res. 90, H.J. Res. 1107 and H.J. Res. 117.

6/ The resolutions are as follows: 78th Congress -- S.J. Res. 86, H.J. Res. 172; 79th Congress -- S.J. Res. 21, H.J. Res. 229; 80th Congress -- S.J. Res. 18, S.J. Res. 29; 83rd Congress -- H.J. Res. 505; 84th Congress -- H.J. Res. 271, 86th Congress -- H.J. Res. 253; 87th Congress -- H.J. Res. 228; 88th Congress -- H.J. Res. 164, H.J. Res. 1025; 89th Congress -- H.J. Res. 182; 92nd Congress -- S.J. Res. 90 and H.J. Res. 717.

89th Congress alone. In addition, during the 89th Congress, hearings were held on proposals to alter the House term by the Subcommittees on constitutional amendments in both the House and the Senate. But the proposals dealt with length and not limiting the number of terms. This trend of limited interest in limiting congressional terms was prevalent until the 94th Congress.

The 94th Congress (1975-1976) marked a noticeable change in the legislation to alter the House term. With its total of nineteen resolutions, it was certainly one of the Congresses most preoccupied with the duration of House Service (exceeded only by the 89th and 95th Congresses in number of proposals introduced to alter the House term). However, more significant than the total proposals introduced (19), is the proportion of proposals to lengthen the term (11) to the number of proposals to limit tenure (8). While, as in virtually every other previous Congress, there were more resolutions introduced to lengthen the term than to solely limit tenure, the number of proposals to solely limit service had more than doubled its total in any previous Congress. Moreover, since four of the eleven measures to lengthen the House term included limitation provisions, the majority of proposals to alter the House term (12) called for a limitation of House tenure in one manner or another. In addition, a growing number of statements of Senators, Representatives, State officials, news editors and reporters, and political scientists began

to appear in support of or in opposition to limiting Congressional terms. It was apparent that the issue of the duration of Congressional service was in transition from concern over length of terms to length of service.

The interest in limiting House tenure that had risen so significantly during the 94th Congress has continued into the 95th Congress. So far twenty-four resolutions to alter the House term have been introduced; a total just one short of the record total proposals introduced in the 89th Congress. Eleven resolutions would limit House service, without changing the two-year term. Only five of the proposals would lengthen the term without any limit on the number of terms served and eight would both lengthen and limit terms.

From all indications, the 95th Congress will not be outdone by any preceding Congress in activity relative to altering, and particularly limiting, House service. In late October of 1977, a newly formed Foundation for the Study of Presidential and Congressional Terms was announced. The organization, which is located in Washington, D.C. was set up to examine such questions as: (1) Should there be a limit to the number of years a Member of Congress can serve? (2) Should the terms for House Members be lengthened to three or four years? (3) Should Members of Congress be required to resign from office when actively seeking other federal offices? and (4) Should the President be limited

to one extended term in office? The Foundation expects to attract attention through a series of public forums, college debates, speeches and essay contests. Although it does not advocate any of the specific proposals pending in Congress, it generally endorses the concept of limiting congressional terms.

Shortly after the announcement of the Foundation (December 4, 1977), a Gallup poll was taken on limiting Senators and Representatives to a maximum of 12 years in office. A solid majority, some sixty percent, favored such a law.

As recently as March 14 and 16 of this year, the Senate Judiciary Subcommittee on Constitutional Amendments held hearings on S.J. Res. 27 and S.J. Res. 28, two proposals to limit congressional terms. Chaired by Senator Dennis DeConcini (D-Ariz.), the testimony of several current Members of Congress and one former Member was heard during the two days of the proceedings. In addition, several academicians were also witnesses. In general, the congressional Members who testified supported limiting congressional terms by Constitutional Amendment, while most of the academicians were opposed.

A number of points and counterpoints arise when the congressional limitation issue is examined:

LIMITING THE NUMBER OF CONGRESSIONAL TERMS A MEMBER MAY SERVE:

PRO

1. Assures a consistent and systematic means of renewal and rotation of Members.
2. Assures a constant influx of new Members who would bring with them new ideas and innovative plans.
3. Enhances competition for office through reasonable turnover of Members and protects against "professional legislators", i.e., legislators whose primary function is no longer representation.
4. Serves as a safeguard against the unequal distribution of power resulting from the seniority system, which through not so strong as it once was, places enormous power in the hands of Members solely because they have been in Congress so long.

CON

1. Would infringe upon the right of the constituency to determine who and how many times they wish to return a Member to office.
2. It is not an exclusive characteristic of new Members that they and they alone bring new ideas and innovative plans into the system. In addition what a new Member thinks is a "new idea" may be recognized by a seasoned Member as an "old idea" recycled.
3. Would force many experienced well informed and competent Members out of office prematurely.
4. Is no longer necessary as a check against the seniority system in light of recent congressional reform. Additional reform, e.g., restricting the length of time a Member could serve on one committee or be chairman of a committee) not a constitutional amendment, is needed.

PRO

5. Allows more citizenry the opportunity to serve in Congress.
6. Follows the example set in the limitation on Presidential tenure of the Twenty-second Amendment.
7. Incumbents have built-in advantages (e.g., franking privileges, travel allowances, experienced staff) such that it is extremely difficult to defeat them.

CON

5. The citizenry already has open opportunity to serve in Congress. Rather, Members would lose the opportunity to participate in government if their constituents wish them to continue serving.
6. The Twenty-second Amendment has been subject to many criticisms including the creation of a "lame duck" President, without power and/or accountability to the American public.
7. When incumbents win re-election, it is not because of built-in advantages (e.g. franking privileges, travel allowances, experienced staff) but rather because their constituents are pleased with the job they are doing. Thus, it is the incumbent's "good record" and not his built-in advantages that make him difficult to defeat, as well it should be.

AMENDMENTS TO THE CONSTITUTION LENGTHENING THE TERM OF OFFICE
FOR MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES
(94TH CONGRESS)

TERM/DESCRIPTION	RESOLUTION	SPONSOR	DATE INTRODUCED
4 Year Term	H.J. Res. 126	Mr. Matsunaga	Jan. 20, 1975
	H.J. Res. 149	Mr. McClory	Jan. 28, 1975
	H.J. Res. 884	Mr. Goodling	Mar. 23, 1976
	H.J. Res. 929	Mr. Goodling	Apr. 28, 1976
	S.J. Res. 187	Mr. Mansfield	Apr. 7, 1976
4 Year Term, Requires Resignation of Representative Who Becomes Senate Candidate	H.J. Res. 404	Mr. Mazzoli	Apr. 17, 1975
4 Year Term, Members Chosen Every 2nd and 4th Year	H.J. Res. 794	Mr. Roush	Feb. 4, 1976

AMENDMENTS TO THE CONSTITUTION LENGTHENING AND LIMITING THE TERM
OF OFFICE FOR MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES
(94TH CONGRESS)

4 Year Term, Limited to 3 Consecutive Terms	H.J. Res. 974	Mr. Bedell	June 4, 1976
	H.J. Res. 991	Mr. Hughes	June 17, 1976
	H.J. Res. 1046	Mr. Hughes	Aug. 5, 1976
3 Year Term, Limited to 5 Years	H.J. Res. 1050	Mr. Schulze	Aug. 10, 1976

AMENDMENTS TO THE CONSTITUTION LIMITING THE TWO-YEAR
TERM OF OFFICE FOR MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES
(94TH CONGRESS)

TERM/DESCRIPTION	RESOLUTION	SPONSOR(S)	DATE INTRODUCED
2-Year Term, Limited to 18 Years Service	H.J. Res. 823	Mr. Studds	Feb. 19, 1976
2-Year Term, Limited to 12 Years Service	H.J. Res. 827	Mr. Anderson (Calif.)	Feb. 25, 1976
2-Year Term Limited to 6 Consecutive Terms	H.J. Res. 1087	Mr. Lagomarsino et al.	Sept. 8, 1976
2-Year Term, Limited to 6 Consecutive Terms, Single, Six-Year Term for the President	H.J. Res. 1035 H.J. Res. 1088	Mr. Lagomarsino Mr. Lagomarsino, et al.	July 28, 1976 Sept. 8, 1976
2-Year Term, Limited to 10 Terms	H.J. Res. 972	Mr. Peyser	June 3, 1976
2-Year Term, Limited to 4 Consecutive Terms (unless elected to fill vacancy)	H.J. Res. 709	Mr. Pressler	October 23, 1975
Limited to 10 Years during any 12 Year Period	H.J. Res. 868	Mr. Jacobs	March 16, 1976

AMENDMENTS TO THE CONSTITUTION LENGTHENING THE TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS

TERM/DESCRIPTION	RESOLUTION	SPONSOR(S)	DATE INTRODUCED
4-Year Term, Resignation from the House to run for the Senate	H.J. Res. 150	Mr. Lloyd	Jan. 17, 1977
	H.J. Res. 630	Mr. Steers	Oct. 17, 1977
	H.J. Res. 635	Mr. McClory	Oct. 20, 1977
3-Year Term for House Members; Single 6-Year Term for the President and Vice President	H.J. Res. 163	Mr. Hanley	Jan. 19, 1977
	H.J. Res. 275	Mr. Hanley	Feb. 23, 1977
		Mr. Eilberg	
		Mr. Goodling	
		Mr. Jenrette	
		Mr. Collins, of Tex.	
		Mr. Treen	
		Mr. Maguire	
		Mr. Miller, of Calif. Mr. Baucus	

AMENDMENTS TO THE CONSTITUTION LENGTHENING AND LIMITING THE TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS

4-Year Term, House divided into two classes elected alternately; Limits House Members to 3 consecutive 4-Year terms; Limits Senators to 3 consecutive 6-Year terms; Resignation from House (if more than one year of House term remains) to run for Senate	H.J. Res. 249	Mr. Bedell	Feb. 9, 1977
	H.J. Res. 697	Mr. Cornell	Jan. 31, 1978

AMENDMENTS TO THE CONSTITUTION LENGTHENING AND LIMITING THE TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS

<u>TERM/DESCRIPTION</u>	<u>RESOLUTION</u>	<u>SPONSOR(S)</u>	<u>DATE INTRODUCED</u>
4-Year Term, Staggered elections; Limits House Members to 3 full terms of 4 Years; Limits Senators to 2 full terms of 6 Years	H.J. Res. 254	Mr. Glickman Mr. Stockman	Feb. 9, 1977
	H.J. Res. 535	Mr. Glickman Mr. Bedell Mr. Panetta Mr. Leach Mr. Burgener	June 27, 1977
4-Year Term, House divided into 2 classes elected alternately; Limits House service to 10 consecutive years; 8-Year term for Senators; Limits Senate service to 12 consecutive years; 6-Year term for President and Vice President; Limits President to 9 years service	H.J. Res. 200	Mr. Quayle	Jan. 26, 1977
4-Year Term, Limited to 3 Terms for House Members	H.J. Res. 343	Mr. Stump	Mar. 22, 1977
3-Year Term for House Members, Limited to 5 Consecutive terms, 75 Year Age Limit	H.J. Res. 203	Mr. Schulze	Jan. 26, 1977
	H.J. Res. 423	Mr. Schulze Mr. Burgener Mr. Stark Mr. Winn Mr. Devine Mr. St. Germain	Mar. 28, 1977

AMENDMENTS TO THE CONSTITUTION LIMITING THE TWO-YEAR TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS (Continued)

<u>TERM/DESCRIPTION</u>	<u>RESOLUTION</u>	<u>SPONSOR(S)</u>	<u>DATE INTRODUCED</u>
2-Year Term, Limited to 4 consecutive terms for House Members; Limits Senators to 2 consecutive terms of 6 years	H.J. Res. 276	Mr. Pressler	Feb. 23, 1977
2-Year Term for House Members; Limits service of House and Senate Members to 6 consecutive congresses	H.J. Res. 73	Mr. Lagomarsino	Jan. 4, 1977
	H.J. Res. 293	Mr. Baucus Mr. Burgener Mr. Cleveland Mr. Fraser Mr. Panetta Mr. Pritchard Mr. Walker	Mar. 2, 1977
	S.J. Res. 28	Mr. Danforth Mr. Deconcini Mr. Goldwater Mr. Hayakawa Mr. Schmitt Mr. Wallop	Feb. 24, 1977

AMENDMENTS TO THE CONSTITUTION LIMITING THE TWO-YEAR TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS (Continued)

TERM/DESCRIPTION	RESOLUTION	SPONSOR(S)	DATE INTRODUCTION
2-Year Term for House Members; Limits service of House and Senate Members to 6 consecutive congresses; Single 6-Year term for the President and Vice President	H.J. Res. 77	Mr. Lagomarsino Mr. Burgener Mrs. Keys	Jan. 4, 1977
2-Year Term for House Members; Limited to 6 consecutive terms; Limits Senators to 2 consecutive terms	H.J. Res. 360	Mr. Kasten	Mar. 29, 1977
2-Year Term, Limited to 6 consecutive congresses for House Members; 6-Year term, Limited to 6 consecutive congresses for Senators; Single 6-Year term for the President; 6-Year term for the Vice President	H.J. Res. 295	Mr. Lagomarsino Mr. Burgener Mr. Cleveland Mr. Fraser Mr. Pritchard	Mar. 2, 1977

AMENDMENTS TO THE CONSTITUTION LIMITING THE TWO-YEAR TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS (Continued)

TERM/DESCRIPTION	RESOLUTION	SPONSOR(S)	DATE INTRODUCTION
2-Year Term, Limited to 10 years in any 12 year period for House Members; 6-Year Term, Limited to 12 years in a 14- year period for Senators	H.J. Res. 543	Mr. Jacobs	July 12, 1977
2-Year Term, Limited to 12 years service for House Members; 6-Year Term, Limited to 12 years service for Senators; 18 year limit on Combined House and Senate service	H.J. Res. 538	Mr. Hillis	June 28, 1977
2-Year Term for House Members; Limits House Members to 7 full terms; Limits Senators to 2 Full terms of 6 years	S.J. Res. 27	Mr. Deconcini Mr. Danforth Mr. Goldwater Mr. Schmitt	Feb. 24, 1977
2-Year Term for House Members; Limits House Members to 9 full terms; Limits Senators to 3 full 6-year terms	H.J. Res. 18	Mr. Frenzel	Jan. 4, 1977

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May 5, 1978

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TERM OF OFFICE FOR MEMBERS
OF THE U. S. HOUSE OF
REPRESENTATIVES: A HISTORY
AND SELECT BIBLIOGRAPHY

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April 24, 1978

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FOREWORD

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TERM OF OFFICE FOR MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

The term of office for Members of the U.S. House of Representatives involves a controversy that is as old as the Constitutional Convention of 1787, where the House term sparked extensive debate. At that time, the crux of the debate was the length of the term. However, modern discussions have tended to focus on three questions: (1) Should the House term be lengthened? (2) If the House term is lengthened, should elections be staggered (as in the Senate) or concurrent with the Presidential election? and (3) Should House tenure be limited?

THE TWO-YEAR COMPROMISE

The present two-year term was the result of a compromise reached by advocates of the one-year term and advocates of the three-year term who met at the Federal Convention in the spring of 1787. ^{1/} Some of the delegates, including Elbridge Gerry (Mass.) favored annual elections. Others, including James Madison (Va.) and Alexander Hamilton (N.Y.) advocated triennial elections.

^{1/} Prior to the ratification of the Constitution, the methods of selection and length of terms of delegates were as follows. During the First and Second Continental Congresses (1774-1775) delegates were chosen by extra-legal committees of correspondence; they had no fixed term of office. Under Article V of the Articles of Confederation (1776-1789), delegates were appointed annually "in such manner as the legislature of each state shall direct." While delegates were usually reappointed automatically, they were limited to serving three years in any six-year period. This limitation was the result of the adoption of a proposal introduced October 14, 1777 by John Dickinson (Del.) that "no person shall be capable of being a delegate for more than three years in any term of six years."

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Those favoring the annual elections suggested by Roger Sherman and Oliver Ellsworth of Connecticut believed that a one-year term would prevent a Member from being too independent of his constituents. In addition, their argument was supported by the fact that annual elections were already the practice in all but three States (South Carolina, Rhode Island and Connecticut) as well as the Congress under the Articles of Confederation. Moreover, two of the three States not holding elections annually were obviously in favor of frequent elections, since they held elections even more often than every year. 2/

Those delegates favoring the three-year term proposed by Daniel Jenifer (Md.) argued that a shorter term would not allow new Members sufficient time to acquaint themselves with their duties. In addition they believed that too frequent elections would tend to engender indifference in the electorate. As a compromise the two-year term was agreed upon. 3/

The following table traces the action on the length of the House term at the Convention:

2/ At the time of the formation of the Constitution the members of the lower branch of the South Carolina legislature were elected every two years, while Connecticut and Rhode Island elected their members every six months.

Federalist Papers No. 53.

3/ Although terms of one, two and three years were proposed, George Mason (Va.) was the only person other than John Rutledge, to actually speak in favor of the two-year term before it was agreed to as a compromise (June 21, 1787).

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CHRONOLOGY OF ACTION ON LENGTH OF THE HOUSE TERM 4/
AT THE CONSTITUTIONAL CONVENTION, 1787

DATE	ACTION
May 14, 1787	Meeting of the Constitutional Convention.
May 29, 1787	Introduction of the Virginia Plan, in which the House term was left blank (Edmund Randolph-Va.)
June 12, 1787	Debate in the Committee of the Whole: Roger Sherman (Conn.) and Oliver Ellsworth (Conn.) proposed a one-year term, John Rutledge (S.C.) proposed a two-year term, and Daniel Jenifer (Md.) proposed a three-year term. The term was set at three years by a vote of 7 to 4 with New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and Georgia voting in favor and Massachusetts, Connecticut, North Carolina, and South Carolina opposed.
June 13, 1787	Report of the Committee of the Whole (including three-year terms for House Members) completed.
June 15, 1787	Introduction of the New Jersey Plan providing for one-year terms for Congressman (William Patterson-N.J.)
June 19, 1787	Report of the Committee of the Whole to the Convention: debate begun.
June 21, 1787	Debate continued, with motion to delete "three years" approved -- 7 to 3 (Massachusetts, Connecticut, Pennsylvania, South Carolina, Virginia, North Carolina, Georgia, in favor; New York, Delaware, Maryland, opposed; and New Jersey divided). Motion to insert "two years" approved unanimously.

4/ The information in this table was obtained primarily from two sources: (1) Jones, Charles O. Every second year; Congressional behavior and the two year term. Washington, Brookings Institution [1967] p. 3 and (2) Foundation for the Study of Presidential and Congressional Terms. Constitutional background and legislative history of proposals to limit the number of years served by members of the House and Members of the Senate. Washington, D.C., p. 1-3.

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CHRONOLOGY OF ACTION ON LENGTH OF THE HOUSE TERM
AT THE CONSTITUTIONAL CONVENTION, 1787

DATE	ACTION
July 26, 1787	Referral of all resolutions agreed to in Convention (including two-year terms for House Members) to the Committee on Detail.
August 6, 1787	Report (including a two-year House term) of the Committee on Detail.
September 8, 1787	Referral of all resolutions to the Committee on Revision.
September 12, 1787	Report of the Committee on Revision (including two-year terms for House Members)
September 17, 1787	Agreement of framers to final draft.

EFFORTS TO ALTER THE HOUSE TERM: 1ST - 95TH CONGRESSES

During the first eight decades following the adoption of the Constitution (1789-1869), there was general satisfaction with the two year term and only two attempts were made at alteration. In the First Congress, a resolution was introduced to restrict to six the number of years in succession the same person could serve in any span of eight years. ^{5/} Nine Congresses later (1808), Senator Hillhouse (Conn.) proposed that after March 3, 1813, the term of a Representative be one year. Thus, the two-year term was challenged only twice during the first thirty-nine Congresses.

^{5/} Limitation of House tenure, then lay virtually dormant until the mid 1940s.

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The 40th Congress marked the end of the era of a virtually unchallenged two-year term. On February 8, 1869, Mr. Selye (N.Y.) introduced H.J. Res. 443, the first recorded resolution to lengthen the House term. Like most of the numerous proposals to lengthen the House term that would follow, the resolution provided for a term of four years. Up to the time Mr. Selye introduced his proposal, it was a generally observed tradition to serve two terms and then retire. ^{6/} Since 1869, only five Congresses (the 41st, 43rd, 52nd, 57th and 66th) have not seen the introduction of at least one proposal to alter the House term. Moreover, since then, there have never been two consecutive Congresses in which legislation to alter the House term was not introduced.

Within twenty years after Mr. Selye's four-year proposal (1869-1889), eleven resolutions to lengthen the House term were introduced. Eight of these proposed to fix the term at three years. One of these eight provided for division of Representatives into classes, with one-third to be chosen every year. Of the remaining three resolutions, two would have increased the term to four years, while one proposed to make the term for Representatives the same as that for Senators and to divide Representatives into three classes so that a third of the House would be elected every two years.

From 1889 to 1928 ten Constitutional Amendments were introduced to increase the term to three years, 31 to increase the term to four years

^{6/} Kernell, Samuel. Toward understanding 19th century congressional careers: ambition, competition, and rotation. *American Journal of Political Science*, v. 21, November 1977, p. 676-677.

and three to to increase the term to six years. Three of these resolutions, one providing for a four-year term and two for a six-year term, included a provision making Representatives subject to recall by their electors.

The measure, H.J. Res. 120, proposing a four-year term for Representatives, also provided for the popular election of Senators. ^{7/} On June 20, 1906, H.J. Res. 120 was the only one of the fifty-five measures introduced from 1869 to 1928 lengthening the House term to be voted upon in the House. Some claimed that the four-year term for Representatives had been deliberately joined to the popular election of Senators clause in order to insure its passage, since the latter proposition had passed the House on four different occasions by a nearly unanimous vote. If this was the strategy of proponents of the four-year term, it was to no avail, as was an effort to separate the provisions. The entire resolution, inclusive of a four-year term for House Members and the popular election of Senators resulted in a vote of 89 yeas and 86 nos. Since the two-thirds majority in favor required to amend the Constitution was not attained, the resolution failed.

The marked increase in the number of proposals to lengthen the House term during the late nineteenth and early twentieth centuries (1860s to 1920s) is indicative of rising interest in duration of service in the

^{7/} Prior to the ratification of the 17th Amendment in 1913, Senators were elected by State legislatures.

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House. Several factors at times conflicting were involved in the introduction of the alternative proposals. The tradition of serving two terms was steadily declining and careerism of Congressmen increased significantly from the Civil War to the 1920s. Indeed, from 1860 to 1920 the average length of service doubled from four to eight years. By 1901, when the 57th Congress convened, for the first time less than thirty percent of its Members were freshmen. ^{8/} As more incumbents returned, House membership stabilized and the late nineteenth and early twentieth centuries saw the Representative's service transformed from a brief period of civic duty to an ongoing career. Certain Members could feasibly see the lengthening the two-year term to four years as a means of maintaining the two-term tradition, given the doubling of average House service to eight years. Alternatively, Members could envision the lengthening of the term as a constitutional recognition of the development of service in the House as a political career.

In addition to growing careerism of Congressmen numerous other factors contributed to the interest in duration of service. By the second decade of the twentieth century, a network of standing committees was established, automatic rules replaced the Speaker's discretion in

^{8/} Kernell. Op. cit. p. 669-693.

determining committee advancement, seniority played an increasing role in the selection of committee chairmen, and expertise and specialization evolved as major considerations in allocating status among Members.

Longer House service also became more attractive because of the emerging role of the Federal government in making national political decisions of increasing importance. As Congress became a more authoritative political center, the Congressman's job became more important and prestigious.

Thus, growth of careerism, modernization of the House, and emerging roles of the Federal Government and Representatives are among those factors which earmarked the 1860s through the 1920s as a period when interest in the duration House service was significantly aroused. Longevity of service in the House became more attractive, recognized and rewarding. Within this setting an increasing number of resolutions were being introduced to lengthen the House term.

From 1929 to 1963 sixty-four resolutions were introduced to lengthen the Representative's term. All but one of the proposals provided for a four-year term. The remaining resolution, S.J. Res 29, introduced by Senator Fulbright on January 15, 1947, proposed a six-year term for Representatives, Senators, the Vice President, and the President alike.

The thirty-four years from 1929 to 1963 saw numerous unsuccessful attempts to alter the House term. On February 24, 1931, during

House consideration of the 20th Amendment, an attempt was made to provide for a four-year term, however the attempt failed. Fourteen years later (1945) during hearings held by the Joint Committee on the Organization of Congress, two Members suggested a six-year term for House Members, but the Joint Committee did not make any recommendations regarding the proposal. In 1946 a Gallup Public Opinion Poll taken on the question of the four-year term for Members of the House resulted in the following statistics: 40 percent in favor, 51 percent against and 9 percent undecided. ^{9/}

In 1951, President Harry S. Truman proposed a change in the term of Members of the House and an overall change in the tenure of both the House and Senate. His first proposal called for the election of House Members at the same time that the President is chosen, with Members serving four years. The second proposal placed a limit of twelve years on service in each chamber of Congress.

The proposal to limit tenure in Congress was viewed by many as an attack on seniority and caused much controversy. Neither of Truman's recommendations received any congressional action.

In 1954, the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary conducted hearings on methods of

^{9/} Congressional Quarterly Special Report, "Congressional Reform", April 1, 1964, p. 49.

filling vacancies in the House of Representatives in time of emergency. During the hearings, Senator Francis Case (R-S.D.) introduced S.J. Res. 155 which provided for a four-year term for House Members. The measure was considered briefly by the subcommittee and reported to the full Committee but no further action was taken.

On March 2, 1955, President Eisenhower, at his 62nd news conference, endorsed the four-year term for Representatives, with their election to be held concurrently with the President. 10/ Later (January, 1963) the former President advocated a limit of twelve years service for Congressmen stating: "what is good for the President might very well be good for Congress." 11/ (Eisenhower was referring to the 22nd Amendment which limits the President to two terms.) A few days later (January 24, 1963) President Kennedy, when asked to comment on Eisenhower's statement in support of limited congressional terms responded: "It's the sort of proposal I may advance in a post presidential period, but not right now." 12/

From 1929 to 1963 a total of nine attempts were made to limit House tenure, with five calling for a limit of six years in either and/or both

10/ Congressional Quarterly Weekly Report. Eisenhower Meets Press.
March 4, 1955: p. 221.

11/ Berman, Daniel M. In Congress Assembled. New York: Macmillan Co.,
1964, p. 135.

12/ Ibid.

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the House and Senate, one to limit House service to two six-year terms, and three to limit House service to six consecutive two-year terms. 13/

It is interesting to note that in 1961 a Gallup Public Opinion Poll taken on the question of a four-year term for House Members showed a change in opinion when compared to a poll taken fifteen years earlier (1946). The 1961 results were as follows: 51 percent in favor, 34 percent against and 15 percent undecided. 14/ (The 1946 results had shown: 40 percent in favor, 51 percent against and 9 percent undecided).

It may be said of the thirty-four years from 1929 to 1963 that they were years of a growing momentum to alter the House term. Indeed, during that period the House term caught the attention of three Presidents, was the subject of numerous proposals of Members of Congress, and was a point of discussions at a number of hearings and committee meetings. While most of the attention during this period focused on lengthening the House term, it is important to note that two other considerations came to be issues in the controversy. Given the active endorsement of recent Presidents, the questions began to arise whether

13/ The resolutions are as follows: 78th Congress -- H.J. Res. 172, S.J. Res. 86; 79th Congress -- S.J. Res. 21, H.J. Res. 229; and 80th Congress -- S.J. Res. 18; 83rd Congress -- H.J. Res. 505; 84th Congress -- H.J. Res. 271; 86th Congress -- H.J. Res. 253; and 88th Congress -- H.J. Res. 164.

14/ Congressional Quarterly Special Report, "Congressional Reform," April 1, 1964, p. 49.

elections should be staggered or concurrent with the Presidential election. In addition, with the growing political careerism in the House and the passage of the Twenty Second Amendment, another question arose, namely, should House tenure be limited?

From 1964 to 1971 forty-four resolutions were introduced to lengthen the House term. Forty-two of these provided for a four-year term, with the remaining two providing for a three-year term. Although none of the resolutions was reported from committee in either the House or Senate, hearings were held on a number of resolutions during the 89th Congress by the House and Senate Subcommittees on Constitutional Amendments of the Committees on the Judiciary. During that same Congress, a longer term for House Members was briefly discussed at hearings held by the Joint Committee on the Organization of the Congress.

On May 10, 1965, (First Session, 89th Congress) the Joint Committee on the Organization of the Congress of the United States held the first of forty-one days of hearings on a wide variety of recommendations relating to the organization and procedures of the Congress. During the hearings, several political scientists and private organizations submitted statement and/or testimony. Moreover, seventeen Senators and fifty-nine Representatives testified in person, and two Senators and nineteen Representatives submitted statements for the record. In all, the committee received the views of 181 witnesses, approximately thirty of whom (as individuals or organizations) recommended modification of the present

House term. Most of the thirty favored a four-year term. However, a number of witnesses opposed making any change in the term. 15/

In August 1965 four days of hearings on proposals to lengthen the House term were held by Subcommittee Number 5 of the House Committee on the Judiciary. During the hearings fifteen witnesses testified and fifty-three statements were submitted. 16/ The Subcommittee sent H.J. Res. 394 to the full Judiciary Committee with the recommendation that the full Committee conduct further hearings on the proposal. No further action was taken.

In January 1966, President Lyndon B. Johnson, in his State of the Union Address, urged the Congress to consider a constitutional amendment which would extend the House term to four years. A few days later, the President sent a special message to the Congress detailing his proposal. The proposal, embodied in S.J. Res. 72, S.J. Res. 126 and H.J. Res. 807, provided that all Members of the House of Representatives be elected for four years and take office "on the 3rd day of January of the year in which the regular term of the President is to begin." In addition, it provided that no Member

15/ The question of a longer House term. Congressional Digest. v. 45, no. 5, May 1966: 136.

16/ U.S. Congress. House. Committee on the Judiciary. Summary of activities of the Committee on the Judiciary, House of Representatives. Washington, U.S. Govt. Print. Off., 1965. p. 18.

of either House of Congress could be eligible for election to the other House without first submitting his resignation at least thirty days prior to the election.

On July 13 and 14, 1966, the Senate Subcommittee on Constitutional Amendments held hearings on S.J. Res. 72, 126, 128, 132, and H.J. 394 relating to four-year terms for Representatives. Eleven Members of Congress (4 Senators and 7 Representatives) submitted statements and/or testified. Underlying the controversy over proposals for or against a four-year term, were questions regarding whether terms should coincide with the President's term, all should be elected at mid-term, or some should be elected at staggered annual or biennial elections.

Although the numerous proposals to lengthen the House term were discussed in the House and Senate Judiciary Committee hearings, no further action was taken in the 89th Congress.

Thus the seven years from 1964 to 1971 was a period of increasing activity for proponents of the four-year term for Representatives, particularly in the 89th Congress, the question of extending the terms of House Members sparked two messages from the President, separate public hearings conducted by two committees of the Congress, and an unprecedented number of resolutions (22 for a four-year term and 2 for a three-year term).

Only three resolutions were introduced from 1964 to 1971 to limit House terms. 88th Congress --- H.J. Res. 164, H.J. Res. 1025 and 89th

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Congress -- H.J. Res. 182. Two of these (H.J. Res. 164, and H.J. Res. 182) limited service to six consecutive two-year terms. The remaining resolution (H.J. Res. 1025) limited service to five four-year terms.

During the 92nd Congress (1971-1972) a total of eight proposed amendments were introduced in the House to change the length of a Representative's term of office. All eight resolutions provided for a term of four years. In addition, six of these eight (H.J. Res. 101, H.J. Res. 287, H.J. Res. 288, H.J. Res. 338, H.J. Res. 341, and H.J. Res. 891) provided for the division of the House into two classes, with one of the two classes elected every two years. H.J. Res. 341, and the two remaining resolutions (H.J. Res. 111 and H.J. Res. 253) also required that a House Member resign to run for the Senate.

In addition to the eight resolutions introduced during the 92nd Congress to alter the length of a Representative's term, there were three resolutions introduced to limit the number of terms a Representative may serve. One of these, S.J. Res. 90, limited a Representative's service to six consecutive two-year terms. While H.J. Res. 1107 limited a Representative's service to six two-year terms, H.J. Res. 717 limited a Representative's service to nine full two-year terms, and they both placed a seventy-year age limit on persons eligible for election to Congress.

In the First Session of the 93rd Congress President Richard Nixon advocated four-year terms for Members of the House in his May 16, 1973, radio address:

"Personally, I have long favored the four-year term for Members of the House, with half of the Members elected every two years. Members serving for two-year terms have to spend one of every two years running for re-election, with the result that they serve one year and run one year. This not only places an enormous burden on the Member himself; it also can work to the disadvantage of his constituents and of the country. By reducing the extraordinary campaign burden on its Members, I believe the House of Representatives could be a more effective instrument of government."

During the 93rd Congress (1973-1974) ten resolutions were introduced in the House to change the length of a Representative's term. Of the ten, two (H.J. Res. 588 and H.J. Res. 701) provided for a three-year term. 17/ The remaining eight proposed amendments provided for a four-year term. 18/

One of the resolutions (H.J. Res. 1164) providing for a four-year term, also limited House Service to three four-year terms. Other resolutions introduced during the 93rd Congress to limit a Representative's service were: H.J. Res. 253 which, limited a Representative's service to nine full two-year terms; H.R. 7648, which limited a Representative's service to twenty-four years and placed an age limit of seventy years on

17/ The measures also stipulated that Congress could not place an age limit on congressional service of less than 70 years or a limit on length of service of less than eighteen years.

18/ Included in these eight are: H.J. Res. 1007 which, in addition to a four-year term, set the House membership at a maximum of two hundred and fifty; H.J. Res. 470 and H.J. Res. 526 which required that a Member of the House resign to run for the Senate; and H.J. Res. 143, H.J. Res. 424, H.J. Res. 254, H.J. Res. 392, H.J. Res. 1164, all of which provided for the division of the House into two classes, with one of the two classes elected every two years. H.J. Res. 254 also stipulated that a Member of the House could only run for the Senate when his term in the House was up for election. H.J. Res. 392 also required a Member's resignation from the House to run for the Senate if the Senate term commenced in the calendar year in which a Presidential term began. H.J. Res. 1164 additionally provided for the limitation on House service to three four-year terms.

years on persons assuming the office of Representative; and H.J. Res. 236 which limited a Representative's service to twelve consecutive years.

The 94th Congress (1975-1976) marked a noticeable change in the legislation to alter the House term. With its total of nineteen resolutions, it was certainly one of the Congresses most preoccupied with the duration of House Service (exceeded only by the 89th and 95th Congresses in number of proposals introduced to alter the House term). However, more significant than the total proposals introduced (19), is the proportion of proposals to lengthen the term (11) to the number of proposals to limit tenure (8). While, as in virtually every other previous Congress, there were more resolutions introduced to lengthen the term than to solely limit tenure, the number of proposals to solely limit service had more than doubled its total in any previous Congress. Moreover, since four of the eleven measures to lengthen the House term included limitation provisions, the majority of proposals to alter the House term (12) called for a limitation of House tenure in one manner or another. In addition, a growing number of statements of Senators, Representatives, State officials, news editors and reporters, and political scientists began to appear in support of or in opposition to limiting Congressional terms. It was apparent that the issue of the duration of House service was in transition from concern over length of term to length of service. All but one of the eleven resolutions to change length of a Representative's

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term. (S.J. Res. 187, introduced by Mr. Mansfield on April 17, 1976) were introduced in the House. The resolutions, their provisions, date of introduction and sponsors are as follows:

AMENDMENTS TO THE CONSTITUTION LENGTHENING THE TERM OF OFFICE
FOR MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES
(94TH CONGRESS)

TERM/DESCRIPTION	RESOLUTION	SPONSOR	DATE INTRODUCED
4 Year Term	H.J. Res. 126	Mr. Matsunaga	Jan. 20, 1975
	H.J. Res. 149	Mr. McClory	Jan. 28, 1975
	H.J. Res. 884	Mr. Goodling	Mar. 23, 1976
	H.J. Res. 929	Mr. Goodling	Apr. 28, 1976
	S.J. Res. 187	Mr. Mansfield	Apr. 7, 1976
4 Year Term, Requires Resignation of Representative Who Becomes Senate Candidate	H.J. Res. 404	Mr. Mazzoli	Apr. 17, 1975
4 Year Term, Members Chosen Every 2nd and 4th Year	H.J. Res. 794	Mr. Roush	Feb. 4, 1976

AMENDMENTS TO THE CONSTITUTION LENGTHENING AND LIMITING THE TERM
OF OFFICE FOR MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES
(94TH CONGRESS)

4-Year Term, Limited to 3 Consecutive Terms	H.J. Res. 974	Mr. Bedell	June 4, 1976
	H.J. Res. 991	Mr. Hughes	June 17, 1976
	H.J. Res. 1046	Mr. Hughes	Aug. 5, 1976
3-Year Term, Limited to 5 Years	H.J. Res. 1050	Mr. Schulze	Aug. 10, 1976

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In addition, nine resolutions were introduced to limit the number of two-year terms for a Member of the House. All were introduced in the House. The resolutions and their provisions are as follows:

AMENDMENTS TO THE CONSTITUTION LIMITING THE TWO-YEAR
TERM OF OFFICE FOR MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES
(94TH CONGRESS)

TERM/DESCRIPTION	RESOLUTION	SPONSOR(S)	DATE INTRODUCED
2-Year Term, Limited to 18 Years Service	H.J. Res. 823	Mr. Studds	Feb. 19, 1976
2-Year Term, Limited to 12 Years Service	H.J. Res. 827	Mr. Anderson (Calif.)	Feb. 25, 1976
2-Year Term Limited to 6 Consecutive Terms	H.J. Res. 1087	Mr. Lagomarsino et al.	Sept. 8, 1976
2-Year Term, Limited to 6 Consecutive Terms, Single, Six-Year Term for the President	H.J. Res. 1035 H.J. Res. 1088	Mr. Lagomarsino Mr. Lagomarsino, et al.	July 28, 1976 Sept. 8, 1976
2-Year Term, Limited to 10 Terms	H.J. Res. 972	Mr. Peyser	June 3, 1976
2-Year Term, Limited to 4 Consecutive Terms (unless elected to fill vacancy)	H.J. Res. 709	Mr. Pressler	October 23, 1975
Limited to 10 Years during any 12 Year Period	H.J. Res. 868	Mr. Jacobs	March 16, 1976

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The interest in limiting House tenure that had risen so significantly during the 94th Congress has continued into the 95th Congress. So far twenty-four resolutions to alter the House term have been introduced; a total just one short of the record total proposals introduced in the 89th Congress. Eleven resolutions would limit House service, without changing the two year term. Only five of the proposals would lengthen the term without any limit on the number of terms served and eight would both lengthen and limit terms.

From all indications, the 95th Congress will not be outdone by any preceding Congress in activity relative to altering, and particularly limiting, House service. In late October of 1977, a newly formed Foundation for the Study of Presidential and Congressional Terms was announced. The organization, which is located in Washington, D.C. was set up to examine such questions as: (1) Should there be a limit to the number of years a Member of Congress can serve? (2) Should the terms for House Members be lengthened to three or four years? (3) Should Members of Congress be required to resign from office when actively seeking other federal offices? and (4) Should the President be limited to one extended term in office? The Foundation expects to attract attention through a series of public forums, college debates, speeches and essay contests. Although it does not advocate any of the specific proposals pending in Congress, it generally endorses the concept of limiting congressional terms.

Shortly after the announcement of the Foundation, (December 4, 1977) a Gallup poll was taken on limiting Senators and Representatives to a maximum of 12 years in office. A solid majority, some sixty percent, favored such a law.

As recently as March 14 and 16 of this year, the Senate Judiciary Subcommittee on Constitutional Amendments held hearings on S.J. Res. 27 as S.J. Res. 28, two proposals to limit congressional terms. Chaired by Senator Dennis DeConcini (D-Ariz.), the testimony of several current Members of Congress and one former Member was heard during the two days of the proceedings. In addition, several academicians were also witnesses. In general, the congressional Members who testified supported limiting congressional terms by Constitutional Amendment, while most of the academicians were opposed.

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AMENDMENTS TO THE CONSTITUTION LENGTHENING THE TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS

TERM/DESCRIPTION	RESOLUTION	SPONSOR(S)	DATE INTRODUCED
4-Year Term, Resignation from the House to run for the Senate	H.J. Res. 150	Mr. Lloyd	Jan. 17, 1977
	H.J. Res. 630	Mr. Steers	Oct. 17, 1977
	H.J. Res. 635	Mr. McClory	Oct. 20, 1977
3-Year Term for House Members; Single 6-Year Term for the President and Vice President	H.J. Res. 163	Mr. Hanley	Jan. 19, 1977
	H.J. Res. 275	Mr. Hanley	Feb. 23, 1977
		Mr. Eilberg	
		Mr. Goodling	
		Mr. Jenrette	
		Mr. Collins, of Tex.	
		Mr. Treen	
		Mr. Maguire	
	Mr. Miller, of Calif.		
	Mr. Baucus		

AMENDMENTS TO THE CONSTITUTION LENGTHENING AND LIMITING THE TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS

4-Year Term, House divided into two classes elected alternately; Limits House Members to 3 consecutive 4-Year terms; Limits Senators to 3 consecutive 6-Year terms; Resignation from House (if more than one year of House term remains) to run for Senate	H.J. Res. 249	Mr. Bedell	Feb. 9, 1977
	H.J. Res. 697	Mr. Cornell	Jan. 31, 1978

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AMENDMENTS TO THE CONSTITUTION LENGTHENING AND LIMITING THE TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS

<u>TERM/DESCRIPTION</u>	<u>RESOLUTION</u>	<u>SPONSOR(S)</u>	<u>DATE INTRODUCED</u>
4-Year Term, Staggered elections; Limits House Members to 3 full terms of 4 Years;	H.J. Res. 254	Mr. Glickman Mr. Stockman	Feb. 9, 1977
Limits Senators to 2 full terms of 6 Years	H.J. Res. 535	Mr. Glickman Mr. Bedell Mr. Panetta Mr. Leach Mr. Burgener	June 27, 1977
4-Year Term, House divided into 2 classes elected alternately; Limits House service to 10 consecutive years; 8-Year term for Senators; Limits Senate service to 12 consecutive years; 6-Year term for President and Vice President; Limits President to 9 years service	H.J. Res. 200	Mr. Quayle	Jan. 26, 1977
4-Year Term, Limited to 3 Terms for House Members	H.J. Res. 343	Mr. Stump	Mar. 22, 1977
3-Year Term for House Members, Limited to 5 Consecutive terms, 75 Year Age Limit	H.J. Res. 203	Mr. Schulze	Jan. 26, 1977
	H.J. Res. 423	Mr. Schulze Mr. Burgener Mr. Stark Mr. Winn Mr. Devine Mr. St. Germain	Mar. 28, 1977

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In addition 11 resolutions have been introduced so far during the 95th Congress to limit the number of two-year terms for Members of the House. These resolutions and their provisions are as follows:

AMENDMENTS TO THE CONSTITUTION LIMITING THE TWO-YEAR TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS

<u>TERM/DESCRIPTION</u>	<u>RESOLUTION</u>	<u>SPONSOR(S)</u>	<u>DATE INTRODUCED</u>
2-Year Term, Limited to 4 consecutive terms for House Members; Limits Senators to 2 consecutive terms of 6 years	H.J. Res. 276	Mr. Pressler	Feb. 23, 1977
2-Year Term for House Members; Limits service of House and Senate Members to 6 consecutive congresses	H.J. Res. 73	Mr. Lagomarsino	Jan. 4, 1977
	H.J. Res. 293	Mr. Baucus Mr. Burgener Mr. Cleveland Mr. Fraser Mr. Panetta Mr. Pritchard Mr. Walker	Mar. 2, 1977
	S.J. Res. 28	Mr. Danforth Mr. Deconcini Mr. Goldwater Mr. Hayakawa Mr. Schmitt Mr. Wallop	Feb. 24, 1977

AMENDMENTS TO THE CONSTITUTION LIMITING THE TWO-YEAR TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS (Continued)

TERM/DESCRIPTION	RESOLUTION	SPONSOR(S)	DATE INTRODUCTION
2-Year Term for House Members; Limits service of House and Senate Members to 6 consecutive congresses; Single 6-Year term for the President and Vice President	H.J. Res. 77	Mr. Lagomarsino Mr. Burgener Mrs. Keys	Jan. 4, 1977
2-Year Term for House Members; Limited to 6 consecutive terms; Limits Senators to 2 consecutive terms	H.J. Res. 360	Mr. Kasten	Mar. 29, 1977
2-Year Term, Limited to 6 consecutive congresses for House Members; 6-Year term, Limited to 6 consecutive congresses for Senators; Single 6-Year term for the President; 6-Year term for the Vice President	H.J. Res. 295	Mr. Lagomarsino Mr. Burgener Mr. Cleveland Mr. Fraser Mr. Pritchard	Mar. 2, 1977

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AMENDMENTS TO THE CONSTITUTION LIMITING THE TWO-YEAR TERM OF OFFICE
FOR MEMBERS OF CONGRESS: 95TH CONGRESS (Continued)

<u>TERM/DESCRIPTION</u>	<u>RESOLUTION</u>	<u>SPONSOR(S)</u>	<u>DATE INTRODUCTION</u>
2-Year Term, Limited to 10 years in any 12 year period for House Members; 6-Year Term, Limited to 12 years in a 14- year period for Senators	H.J. Res. 543	Mr. Jacobs	July 12, 1977
2-Year Term, Limited to 12 years service for House Members; 6-Year Term, Limited to 12 years service for Senators; 18 year limit on Combined House and Senate service	H.J. Res. 538	Mr. Hillis	June 28, 1977
2-Year Term for House Members; Limits House Members to 7 full terms; Limits Senators to 2 Full terms of 6 years	S.J. Res. 27	Mr. Deconcini Mr. Danforth Mr. Goldwater Mr. Schmitt	Feb. 24, 1977
2-Year Term for House Members; Limits House Members to 9 full terms; Limits Senators to 3 full 6-year terms	H.J. Res. 18	Mr. Frenzel	Jan. 4, 1977

SHOULD THE HOUSE TERM BE LENGTHENED?

Since the ratification of the Constitution, there have been numerous proposals introduced in Congress to increase the length of term for House Members. Most of the resolutions have been for four years, although terms of three and six years have also been suggested. Modern rationale to retain or lengthen the two-year term include the following points and counterpoints

THE TWO-YEAR TERM

VS.

THE LONGER TERM

1. While modern communications, opinion polls and letters are beneficial to the Congressman, the vote is still the primary avenue for expressing constituents' sentiments. Decreasing the frequency of elections (the vote) would serve against assuring public influence on policy.
2. Frequent (biennial) elections keep the Congress in close check and touch with the people, making the Congressman more responsive to his constituents.

1. Modern communications, opinion polls and letters give the Congressman sufficient data regarding the desires of the people, such that the two-year term is no longer necessary to assure public influence on policy.
2. The short, two-year term means that the Congressman is always running for office. Elections held less often would enable the Congressman to develop a program reflective of his constituents' desires, since a longer term would result in more time to attend to his legislative responsibilities.

THE TWO-YEAR TERM

VS

THE LONGER TERM

3. Today's more voluminous and complex legislation is met with modern technology that makes the Congressman's tasks manageable in the present two-year time frame. Internal reform to improve the efficiency of congressional operations (not a longer) term is needed.
 4. The Congressman has the resources of the committee system, interests groups and non-partisan support agencies, so that expertise, while beneficial, is not mandatory.
 5. A high proportion of House incumbents win re-election anyway, continuing their experience on issues spanning beyond the two-year term.
 6. Major issues today, may not even be major issues three or four years from now.
 7. Elections held less often would not necessarily be less costly. A candidate's campaign expenses are determined by factors other than the frequency of elections.
 8. The dignity, influence and prestige of the House needs no enhancement. It has the status of the chamber that is closest to the people by virtue of its frequent elections.
3. Because of the increase in the volume and complexity of present-day legislation, the Congressman needs a longer term to attend to his legislative responsibilities.
 4. The Congressman should not rely on others for his voting decisions; rather, he should rely primarily on his own judgement and experience regarding issues; judgement and experience enhanced by a longer term.
 5. Since a high proportion of House incumbents win re-election anyway, it would save time and energy to conduct campaigns less frequently.
 6. The longer term would give the Congressman more time to acquire experience and expertise on major issues.
 7. The longer term would result in fewer elections, consequently reducing campaign expenses.
 8. The longer term would enhance the influence of the House, giving it greater prestige and encouraging Members to remain in the House rather than seek Senate seats.

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SHOULD REPRESENTATIVES' ELECTIONS BE STAGGERED OR CONCURRENT
WITH THE PRESIDENT'S ELECTION?

Proponents of the longer term (particularly the four-year term) are divided between those who favor staggered elections (dividing the House into classes, with the classes elected alternately, as in the Senate) and those who favor elections concurrent with the Presidential election (electing all the House Members at the same time the President is elected:

THE STAGGERED ELECTION

VS.

THE CONCURRENT ELECTION

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Insures the fundamental concept of a House kept close to the people, since one half of the House Members would be elected every two years. 2. Insures against making the Congress subservient to the President and or upsetting the separation of powers doctrine and our traditional checks and balances system. 3. Does not present any technical problems of such magnitude that those problems could not be resolved. | <ol style="list-style-type: none"> 1. Since all Representatives would be elected at same time, does not exclude one half the nation's citizens from voting for Representatives each election. 2. Would maximize the likelihood of effective control of Congress and the Presidency by the same political party, thereby maximizing executive-legislative harmony and giving more assurance that the President's programs be considered, if not enacted. 3. Staggering elections presents problems in the reapportionment required after each decennial census and staggering seats evenly within individual States. Electing all the Members at the same time avoids these problems. |
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THE STAGGERED ELECTION VS. THE CONCURRENT ELECTION

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| <p>4. Since factions are based on ideologies and not the election process electing all members at the same time will not obliterate factions. Indeed factions will develop whether elections are staggered or concurrent with the Presidential election.</p> | <p>4. Would not allow factions (in both parties) to develop according to whether Members were elected with the President or in mid-term elections.</p> |
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SHOULD HOUSE TENURE BE LIMITED?

The earliest of the proposed Constitutional Amendments regarding House terms sought not to change the length of the term, but to limit the number of terms a Member could serve. Introduced in the First Congress (1789), the resolution stipulated that no person could serve more than six years in an eight year period. However, the desire to limit congressional tenure predates the Constitution, as evidenced by the Continental Congress' adoption (under the Articles of Confederation) of a proposal (introduced by John Dickinson of Delaware on October 14, 1777) which limited delegates to serving three years in any six year period. 19/

19/ Edmund C. Burnett, *The Continental Congress* (Macmillan, 1941), p. 250.

There was a debate on this provision in 1784, when it came time to begin enforcement. At least three Members were prevented from taking their seats in that year because they had served three years. Benjamin Franklin had offered no such limitation in his draft of the Articles. See Burnett, pp. 605-06, 216.

Jones, Charles O. *Every second year; Congressional behavior and the two year term*. Washington, Brookings Institution [1967] p. 3.

The limitation issue then lay virtually dormant until the mid 1940s. From that time through the mid 1970s limitation of House tenure was the recipient of only limited and occasional attention from the Congress and the public who were far more concerned with two other issues involved in the controversy; namely whether the House term should be lengthened and if lengthened whether all House Members should be elected concurrently with the President or in staggered elections as in the Senate.

But by the end of 1975 a shift in interest concerning the House term was becoming evident; a shift that by 1978 saw the limitation issue replace the other two issues as the primary concern in the controversy. A number of points and counterpoints arise when this issue is examined:

LIMITING THE NUMBER OF CONGRESSIONAL TERMS A MEMBER MAY SERVE:

PRO

1. Assures a consistent and systematic means of renewal and rotation of Members.
2. Assures a constant influx of new Members who would bring with them new ideas and innovative plans.

CON

1. Would infringe upon the right of the constituency to determine who and how many times they wish to return a Member to office.
2. It is not an exclusive characteristic of new Members that they and they alone bring new ideas and innovative plans into the system. In addition what a new Member thinks is a "new idea" may be recognized by a seasoned Member as an "old idea" recycled.

PRO

3. Enhances competition for office through reasonable turnover of Members and protects against "professional legislators", i.e., legislators whose primary function is no longer representation.
4. Serves as a safeguard against the unequal distribution of power resulting from the seniority system, which through not so strong as it once was, places enormous power in the hands of Members solely because they have been in Congress so long.
5. Allows more citizenry the opportunity to serve in Congress.
6. Follows the example set in the limitation on Presidential tenure of the Twenty-second Amendment.
7. Incumbents have built-in advantages (e.g., franking privileges, travel allowances, experienced staff) such that it is extremely difficult to defeat them.

CON

3. Would force many experienced well informed and competent Members out of office prematurely.
4. Is no longer necessary as a check against the seniority system in light of recent congressional reform. Additional reform, e.g., restricting the length of time a Member could serve on one committee or be chairman of a committee) not a constitutional amendment, is needed.
5. The citizenry already has open opportunity to serve in Congress. Rather, Members would lose the opportunity to participate in government if their constituents wish them to continue serving.
6. The Twenty-second Amendment has been subject to many criticisms including the creation of a "lame duck" President, without power and/or accountability to the American public.
7. When incumbents win re-election, it is not because of built-in advantages (e.g. franking privileges, travel allowances, experienced staff) but rather because their constituents are pleased with the job they are doing. Thus, it is the incumbent's "good record" and not his built-in advantages that make him difficult to defeat, as well it should be.

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PART 2.—NEWSPAPER AND MAGAZINE ARTICLES

[From Roll Call, Oct. 27, 1977]

A NEW TRY TO LIMIT CONGRESSIONAL TERMS

(By Mimi Noel)

Four relatively freshman Members of Congress have decided to challenge a political system that has resisted change for 189 years. Chances are, they won't succeed and won't be remembered for their effort.

And still they try * * *

Sens. Dennis DeConcini (D-Ariz) and John C. Danforth (R-Mo) have joined Reps. John W. Jenrette (D-SC) and Robert W. Kasten (R-Wis) in an attempt to change the length of service for Members of Congress and the President. All have accepted positions, as directors, of the newly-formed Foundation for the study of Presidential and Congressional Terms.

"We're trying for grass roots support," Rep. Jenrette says, explaining: "The Congressional route has not had the support of senior Members * * * this is a new route—through the public."

The four Congressmen have introduced legislation that would limit, by Constitutional amendment, Congressional service. House Members would be allowed to serve six two-year terms while Senators would be allowed two six-year terms. The law-makers also proposed a single six-year term for the President.

In a press conference this week they agree that the "battle is uphill."

And still they try * * *

"The idea has been introduced a number of times," Rep. Jenrette said in an interview in the corridor outside the House Floor. "But it never got anywhere with individual Members supporting it * * * the Foundation takes away the self-serving aspects of it."

The group which will be directed by John C. Gartland, a former administrative assistant to Rep. Richard Kelly (R-Fla), is set to study four basic questions:

Should there be a limit to the number of years a Member of Congress can serve?

Should the terms for House Members be lengthened to three or four years?

Should Members of Congress be required to resign from office when actively seeking other federal office?

Should the President be limited to one, extended term in office?

The Foundation expects to capture attention through a program of public forums such as college debates, speeches and essay contests.

Throughout the past decade new Members of Congress have become increasingly restless with the bureaucracy involved in moving legislation through the Congress. More than a few have cited senior Members, committee chairmen to a large extent, for manipulating the due process.

These younger Members have come to believe that limiting the number of terms—in both the House and the Senate would work "for the people."

"After serving in Congress for two terms, I personally believe there is an urgent need to inject new blood and fresh ideas into our political system," Rep. Kasten said. "The issue of limited terms has been around for some time, but it has yet to draw the attention and serious study it deserves."

Remarking on "an anti-Washington" mood, Rep. Kasten said "professional politicians" fail to respond to the "concerns of average Americans."

Nevertheless, the Foundation has definite goals in mind. By next year, they hope to present the public with a chance to vote on the question of limiting both Congressional and Presidential terms on eight or 10 statewide ballots."

To Congressional sages who sat in on the Foundation's meeting, it was the same old argument of "new blood" versus seniority.

But each of the Congressmen present stressed the importance of legislators returning to private life, subject to the very laws he had voted on.

The legislators pointed to their own determination to retire after 12 years. But individual efforts would have little meaning unless the majority of Members in Congress showed active support.

Now, Jenrette is faced with the task of trying to find colleagues with 12 years or more seniority, to support the measure.

"We ought to have some Members in the House and Senate who have reached the terms by which they would have to retire in our proposal to give greater emphasis to what we have to say," Jenrette said.

Rep. Jenrette has already approached retiring Rep. George Shipley (D-III), with 22 years in the House, to lend his support to the anti-seniority proposal.

And still they try * * *

But among his colleagues, Jenrette has found apprehensions that he did not share.

"I've found one of the biggest concerns in limiting the terms is that some great contribution might be lost," Jenrette said. "They point to someone like Thomas Jefferson who was quite senior by the time he made many significant contributions."

Jenrette, at 41, finds the concept appealing that in eight and one-half years he will return to private business. A former lawyer, he already has plans afoot "to set my business up" once he leaves Congress.

But for many Members this would not be the case.

"If someone comes to Congress at 26, and then retires at 38, he has only completed half of his career so he can easily take on another profession," Jenrette said.

"But the problem comes when you speak about limiting middle-aged Congressmen between 30 and 40 * * * after only 12 years here there is no place to go."

Rep. Jenrette cited his own case as an example. He came to Congress at 39 and with such a 12-year limit, he would retire at 51.

"If I didn't have a law practice, at 51 I would have to go into private industry and start a new career * * * I don't think I could do it," he adds.

And still they'll try * * *

With Gartland as the Director and his one-time boss William E. Simon as Chairman of the Foundation Finance Committee, the major focus of the group will be public exposure.

"The impetus must come from the people before Congress will enact such a change," Sen. Danforth said. "My amendment will be considered seriously in the Senate only if the public demands it."

Both freshman Sen. Danforth, and his freshman colleague Sen. DeConcini are firmly opposed to Members of their Chamber being viewed as "political careerists."

"In a seniority system, certain individuals come to possess very great power," Sen. DeConcini said. "While I am not suggesting that this power has been abused in my own experience, I am suggesting that the present system does create the opportunity for such abuse."

And so they remain optimists. They walk the halls, like knights without shining armor or white steed, looking for support. Their aging dragon, 189 years old, remains reincarnated in the form of stubborn senior colleagues.

And still they'll try * * *

[From U.S. News & World Report, Nov. 14, 1977]

PRO AND CON—LIMIT A LAWMAKER'S TERM IN CONGRESS?

YES—ELECTED OFFICIALS SHOULDN'T BE "PERMANENT FIXTURES IN WASHINGTON"

(Interview with Senator John C. Danforth, Republican, of Missouri)

Q. Senator Danforth, why do you favor a constitutional amendment prohibiting any person from serving more than 12 years in the Senate or the House?

A. It would accomplish two things:

First, it's important for elected officials who come to Washington to think of themselves as citizens who are only on leave to their Government—not permanent fixtures in Washington. A limitation on the length of service would

say to a person who is elected: "Look, you are not a new resident of Washington—you are a resident of your own State or your own district. You are of the people who sent you here, and you will eventually, whether you like it or not, be returning to them."

The second thing that would be gained has to do with the human tendency to want to preserve yourself in a good job by saying "Yes" to everybody and "No" to nobody. That's one of the problems in Government now.

Q. Are you saying that lawmakers worry too much about getting re-elected?

A. Yes. I would hope that a limitation on service would create a greater sense of independence and a greater willingness to call them as we see them.

Q. But if every second-term Senator were a lame duck, ineligible for a new term, wouldn't the Senate's responsiveness to the public be reduced?

A. No. First of all, the people I know here who have already announced they're not going to be returning have just as great a sense of responsibility to their electorate as those who want to keep running, running and running.

You don't really elect people to be just walking public-opinion surveys. You elect them to exercise their best judgment on behalf of the people who sent them here. So I don't think that there is anything necessarily beneficial about being consumed with the need to touch every base and remain popular on every issue just to get re-elected.

Too many politicians have said "Yes" to too many people for too long. They have attempted to aggregate support from one interest group after another in order to stay here forever.

Q. In most fields, it is assumed that experience sharpens a person's skills. Isn't this true of Government service, too?

A. I had always been told that when you come to the Senate as a freshman, you're supposed to be seen but not heard. But I haven't found that to be true at all. We are expected to start acting like Senators the day we arrive.

Secondly, we've already crossed this bridge with respect to the Presidency. Presidents, as a matter of constitutional law, are to serve no more than two terms.

And third, I wonder if being a Washington type is the kind of experience a person really should have. There is at least as much wisdom spread throughout the country as there is here. I am one who does not believe that Washington has some monopoly on intelligence or on the right kind of experience.

KEEPING CONTACT WITH "REAL WORLD"

Q. Even, so, shouldn't it be up to the voters to decide whether a legislator deserves another term, instead of mandating a lawmaker's retirement after 12 years?

A. I think there is a trade-off—and the gain would be substantially greater than what would be given up. You would be removing the possibility of one person serving in perpetuity, but in the State of Missouri, for example, there are thousands of people who are fully competent to serve in the United States Senate. This would result in a very minimal reduction in the pool of qualified people.

The gain, again, is the reduced incentive for a member of Congress to try to promise the world. No matter how much you promised, no matter how good your public relations might be, you would know that you would be returning to the workaday world as a matter of constitutional requirement.

That is precisely the kind of message that people here should be given: It is certain that you are going to have to return to the real world and live with the laws you helped enact.

Q. In effect, then, you want to abolish the "professional legislator"—

A. Yes. There's a real problem today in the notion of a professional legislature, and we seem to keep furthering that notion.

Congress is almost always in session. We have just enacted in the Senate an ethics code which, in effect, says that we don't want Senators involved in the workaday world. In the name of ethics, we want them to free themselves from practice of law or practice of medicine or business so they will be available here full time.

I think that is probably moving in the wrong direction. We should view Government as a citizens' army, as made up of citizens who are performing public service for a limited period of time.

Q. Some people say that the perquisites of office, such as newsletters, a staff allowance and ready access to the press, come close to guaranteeing incumbents' re-election—

A. Right. I think the statistics are pretty clear that it's much easier for an incumbent to be re-elected than for a challenger to defeat him. This is another argument for limiting terms, although it is not an argument I rely on.

Q. Do any local or State governments have the kinds of limits on legislative service that you propose?

A. I don't think so. There are limits in some States on Governors serving more than one or two terms, but such limits are not found in the legislative branch.

Q. What are the prospects for your proposal?

A. It's not going to get anywhere unless there's a public outcry for it. The pressure is going to have to come from the people.

NO—"COMPULSORY RETIREMENT IS A WASTE OF TALENT AND KNOW-HOW"

(Interview with Senator Alan Cranston, Democrat, of California)

Q. Senator Cranston, why do you oppose limiting service in the Senate or the House to 12 years?

A. There's a contrary move now in our country to do away with compulsory retirement in most occupations, and I think that's a very, very sound direction for us to take.

Compulsory retirement in private industry is an inefficient waste of talent, know-how and productivity. It is bad for society and bad for business. Much the same could be said about compulsory retirement from Government service.

It should be left up to the voters to decide who can best represent them.

If the voters are satisfied with the performance of a Senator or a Congressman, they should not be deprived of his services and experience—nor should the country—by any arbitrary rule.

Q. We have placed a two-term limit on the Presidency. Why shouldn't a similar limit be applied to Congress?

A. Every rule has its exception, and the one exception that I make to the rule of leaving it up to the voters is the two-term limit on the Presidency.

A President who could serve endlessly would have a great opportunity to develop many of the attributes of a dictator. We've had trends toward one-man rule in our country in recent times. The two-term limit is a very solid barrier against that.

We have as much to fear from Government as we have to gain from Government. And the thing to fear from Government is too much power in too few hands. But Congress, given its makeup, will never be a dictatorship. The question does not apply to Congress, where so many people share authority and responsibility.

Q. Advocates of a limitation on service argue that if we did away with "professional legislators," Congress would be more responsive to the needs and wishes of the voters—

A. There are those who say that we've relied on the citizen soldier as the mainstay of our defense, and so we should now rely on the citizen politician in our legislative process. Actually, because of the sophisticated technology of modern warfare, our defense has to depend on highly trained professionals more and more.

Similarly, our Government has grown so complex that the concept of the inexperienced citizen politician is somewhat outmoded—at least to the degree that we shouldn't depend solely on inexperienced legislators. There should be a blend of the old and new in office, and under the present law we have that blend.

Q. So you see a clear need for people with many years of legislative experience—

A. Yes. In matters that involve public affairs and human relations, experience is a vital, indispensable part of the learning process. You learn not only what Government can do, but what it can't do. New Senators sometimes spin their wheels trying things that are impossible, or trying to launch vast spending programs that just won't work. With experience, you learn to focus your efforts where you can accomplish something significant.

John Sherman introduced the Sherman Antitrust Act in his 29th year in Congress. Paul Douglas introduced the Voting Rights Act in his sixteenth year. Clinton Anderson introduced the Medicare Act in his sixteenth year. Jacob Javits, a Republican, introduced the War Powers Act—a very significant piece of legislation in the past-Vietnam era—after serving more than a decade and a half in the Senate. Sam Ervin led the Watergate hearings in his nineteenth year in the Senate. Robert Wagner served 22 years; Robert Taft, Sr., 14 years; Stephen Douglas, 14 years; Henry Clay, 27 years; Robert LaFollette, 20 years; George Norris, 30 years. All of these careers would have been cut short, and the nation would have been the loser, if we'd had the limit that is proposed.

PROBLEM OF THE LAME DUCKS

Q. Don't legislators sometimes get out of touch with the people back home after many years in Washington?

A. If they do, they get tossed out by their constituents. The basic principle of representative democracy is that you elect people who are supposed to be responsive to the people they represent—not necessarily to always do what the people want, but to solicit their views, understand their problems, stay in touch and serve their best interests. Now, if you're in your final six-year Senate term, and the law says you can't run for re-election, you could become totally unresponsive to the people you serve.

Also, a lawmaker who is a lame duck would be less able to accomplish things. If somebody is on his way out, less attention is paid to his leadership. A Senator would be at his peak of capacity only in his first six years, and then he would lose his clout—and so would his constituents—in his second six years.

Q. It is sometimes argued that incumbents have advantages, such as newsletters, staffs and ready access to the press, that come close to guaranteeing re-election. How true is this?

A. I do have concern that incumbents have advantages. I think there are other ways to deal with the problem. On the bill to provide public financing for congressional-election campaigns, I voted to provide challengers more money than incumbents, for example.

Even so, there are plenty of incumbents knocked off on each go-around. It is noteworthy that several of the advocates of a limit on service recently defeated incumbent Senators. We do have new people coming in with new ideas. More than 50 percent of the House has been here less than six years. More than half of the Senate has been here less than 10 years.

There is no demonstrative need for anything as radical as changing our Constitution to make retirement after 12 years in office mandatory. The voters themselves have been doing a good job of keeping a healthy mixture of "new blood" and experienced "old hands" in Congress.

[From the Washington Post, Dec. 4, 1977]

THE GALLUP POLL—12-YEAR LIMIT FOR HILL MEMBERS FAVORED BY 60 PCT. OF VOTERS

(By George Gallup)

Princeton, N.J.—A solid majority of American voters, 60 per cent, now favor a law that would limit senators and House members to a maximum of 12 years in office.

The proportion in favor of a limit on the time in office for senators is up sharply since 1971, when the figure was 48 per cent. (The question on members of the House was not asked in the earlier survey.)

Although the upward trend is across-the-board with all major population groups, it is most pronounced among younger, better-educated voters.

Sen. John C. Danforth (R-Mo.) recently proposed a constitutional amendment to limit senators and representatives to 12 years of service.

The sharp upturn in support for a limit on the terms of senators may be, in part, a reflection of their unfavorable public image. A recent Gallup survey showed both senators and representatives rated relatively low among a list of persons in 20 occupations in terms of honesty and ethical standards.

Another Gallup survey showed only 35 percent of the public saying they approve of the way Congress is handling its job.

Here is the question asked 1,523 adults from Nov. 4-7 and the trend:

"A law has been proposed which would limit a senator to two terms, or a total of 12 years in office. Would you favor or oppose such a law?"

[In percent]

	Favor	Oppose	No opinion
Latest.....	60	30	10
May 1971.....	48	39	13
January 1966.....	50	38	12
March 1964.....	49	38	13

Here are the results of the current survey by political affiliation:

[In percent]

	Favor	Oppose	No opinion
Republicans.....	64	29	7
Democrats.....	63	27	10
Independents.....	57	36	7

This question was also asked:

"A law has been proposed which would limit a member of the House of Representatives to three terms of four years apiece, or a total of 12 years. Would you favor or oppose such a law?"

[In percent]

	Favor	Oppose	No opinion
Latest.....	59	31	10
Republicans.....	62	29	9
Democrats.....	61	29	10
Independents.....	59	34	7

The plan to limit senators to two terms of six years each has been advocated by at least two Presidents—Dwight D. Eisenhower and Harry S. Truman.

[From the Washington Post, Dec. 31, 1977]

TWO TERMS FOR LEGISLATORS?

(By Tom Braden)

"Politicians," according to Sen. John Danforth (R-Mo), "have a tendency to say 'yes' to all men and 'no' to none."

This trouble has been noted before. Walter Lippman described a politician as one who "decides not whether a proposition is good but whether it's popular; not whether it will work well and prove itself but whether the active-talking constituents will like it immediately."

And Sen. John F. Kennedy declared himself convinced that the desire to be re-elected exercises a strong brake upon "independent courage."

The problem of whether a politician should serve his conscience or his constituency has been with us at least since Edmund Burke, Sen. Danforth, who has made a certain mark during his first term for being refreshingly outspoken, thinks he has at least a partial solution.

Danforth has introduced a resolution proposing a constitutional amendment that would limit the terms of service in the House and Senate to 12 years, the equivalent of six terms for a representative, and two terms for a senator.

His point is that without the hope of holding on to a lifetime job, senators and representatives might vote their convictions. In fact, some of them might develop convictions, so that they would come to Washington, do what they think they ought to do and go home again—for good.

There is something to be said for this argument, and there are other reasons why Danforth's suggestion is worth thinking about.

For example, a greater turnover in Washington might renew the nation's interest in the electoral process. According to the polls, the country is in great doubt as to whether government can accomplish anything worthwhile—or, indeed, anything at all. Most people who are eligible to vote don't.

For another, the Danforth proposal would put an end to the system of power by longevity.

Sen. Russell Long (D-La), for instance, has served in the Senate since 1948. At 60 and with at least two terms to go, he is likely to exercise more influence on the lives of his countrymen than any President they may elect. As chairman of the Senate's Finance Committee, Long pretty much decides how much we'll be taxed, how much we'll pay for gasoline, how much we'll get in Social Security payments when we retire and how much we'll get in Medicare when we're sick.

Yet Long is responsible to no one except the voters of Louisiana, whose votes he controls through one of the most powerful political machines in the country.

Danforth's amendment would rule out the possibility of any senator's or representative's wielding this kind of power, at least for a considerable length of time.

It is true that time is a great teacher and that experience provides wisdom. But there are four men in the Senate presently who have been there 30 years or more. You'd think that, if they had provided the country with much wisdom, we might know them well. Yet I venture that seven out of 10 readers of this column cannot name them.

I like the remark of Sen. Malcolm Wallop (R-Wyo), who supports Danforth: "There's no question that, if this amendment were adopted, men of extraordinary talent would not be here. But there's equally no question that men of extraordinary talent are ready to take their places."

[From the Family Weekly, 1978]

PRO AND CON—SHOULD CONGRESSMEN'S TERMS BE LIMITED TO 12 YEARS?

PRO—REP. DAN GLICKMAN (D-KAN.)

For too many years we have had Congressional fiefdoms in Washington. History provides many examples of members of the House and Senate who have, through the privileges granted by seniority, created for themselves far-reaching powers. The problem of isolation exists on Capitol Hill. Members who have been in Washington too long tend to believe that it is the center of the universe; they lose contact with the people to whom they should be responding. A member who stays too long can and does begin to accept things as they are, to feel secure in the status quo. The advantages of incumbency make re-election, particularly in so-called "safe districts," an easy task for that member.

CON—REP. W. R. POAGE (D-TEXAS)

The basic reason for limiting the term of executives—the President or governors—is that they are able to build up political machines based upon their appointive powers. Members of Congress have no such opportunity. While there may not be many members of Congress who will serve as long as I have (42 years), or as long as Sam Rayburn (49 years) or Carl Vincent (50 years), the people should have the opportunity to avail themselves of the service of any individual they want to serve them just as long as they want his service and he is able to serve. When the people decide they do not want a Congressman, they can and will replace him no matter how long his service has been.

[From the Miami, Florida News, Mar. 3, 1978]

NO PUSH FOR REFORM

Although that wise plan to limit the terms of congressmen to 12 years may be about as popular on Capitol Hill as Tongsun Park, it at least is going to get a two-day hearing this month before the Senate Constitution Subcommittee

chaired by Sen. Birch Bayh (D-Ind.). That gives reformers a few crumbs of satisfaction despite the scant hope that careerist-congressmen seriously would tamper with their comfortable baliwicks.

With Sen. Bayh showing little enthusiasm for the proposed constitutional amendment that would prevent politicians from parlaying incumbencies into lifetime jobs, the hearings aren't likely to spark any hard drive for reform. Sen. Barry Goldwater (R-Ariz.), who has been hanging around the Senate for a quarter of a century, is the only veteran offering support to the chief sponsors, Sens. Dennis DeConcini (D-Ariz.) and John Danforth (R-Mex.).

This country could cure a lot of ills by limiting congressional terms. It could put an end to political dynasties of families from "safe" districts. It could dilute the strength of the too-powerful committee chairmen. It could shatter the seniority system that rewards age instead of talent. It could bring more fresh blood and ideas into the legislative process and help remove government from the control of the WASPish lawyer clique.

To get this promising reform, the people will have to want it—the majority of congressmen probably never will.

[From the Birmingham, Alabama News, Mar. 15, 1978]

BAYH NOT IMPRESSED BY TENURE-LIMIT MOVE

Washington (AP).—Sen. Birch Bayh, D-Ind., serving his third term in the Senate, doesn't think much of proposals to limit the tenure of members of Congress, sponsored largely by freshman senators.

In a statement opening hearings by the constitution subcommittee of the Senate Judiciary Committee, Bayh said he had "serious reservations on the merits of these proposals." He questioned whether the proposed constitutional amendments would weaken the legislative branch and whether the federal government would work as well "if it relied on less experienced legislators."

[From the Washington Post, Mar. 18, 1978]

CONGRESSIONAL LONGEVITY

One of those perennial attempts to reform Congress by limiting the terms of its members was trotted out again this week before a Senate Judiciary subcommittee. Under consideration are two constitutional amendments that would limit the service of future senators and representatives to 12 or 15 years. Proposals like these have been floating around at least since 1951, when the Constitution was changed to restrict presidents to two full terms. We hope they continue merely to float and don't light.

It needs to be conceded that proponents of amendments like these, introduced by Sens. Dennis DeConcini (D-Ariz.) and John C. Danforth (R-Mo.), are focusing on a real problem: the stagnation that prolonged terms in high office can produce. The seniority system, even though it is not so strong now as it once was, places enormous power in the hands of longtime members of Congress solely because they have been there so long. That, coupled with the political advantages that incumbency generates, makes it increasingly difficult for new blood to fight its way to Washington. Even when a veteran member has dropped out of touch philosophically with his constituents, he is often able to stay in office because party officials prefer power to issues.

Sen. DeConcini also argues that this distribution of power operates to deny equal representation to voters in states and districts where hot political competition makes it difficult for any person to stay long in Congress; the representatives of those areas are never able to stand on an equal footing with those from districts that send back the same legislator election after election.

Those are valid and appealing arguments. They make the proposed limits on congressional terms seem attractive. But the senators have traced the problems to the wrong source and are thus prescribing the wrong cure. The evils—and they are that—of which they speak grow not out of unlimited service but out of the way in which Congress itself has chosen to treat that service. The cure, then, is not to keep particular people out of Congress, but rather to limit

the power and prerogatives that Congress grants to those members who win reelection repeatedly. For example, restricting the length of time a member could be a committee chairman or, even, serve on a committee might not change the situation as much as would the proposed amendment, but it would certainly reduce the advantages of long service.

To attack this problem the other way, as the proposed constitutional amendments do, is to place an additional restriction on the right of voters to choose whomever they want to represent them in Washington. That right of choice is so fundamental that it should not be tampered with. Voters should be allowed to elect—and reelection—to Congress whom they please.

[From the Washington Post, Apr. 18, 1978]

WHY WE SHOULD LIMIT CONGRESSIONAL TERMS

(By Milton S. Eisenhower¹)

The Post's March 18 editorial "Congressional Longevity" cited some of the reasons given for advocating limited terms for representatives and senators. The editorial remarked that nothing would be gained by such limitation.

But it did not mention what I deem to be the most important reason for limiting representatives to three four-year terms and senators to two six-year terms. The electoral process operates in such a way that we tend to have permanent members of Congress, and to achieve that result the members must support not what is best for the United States but what will most please their constituents at a particular time.

Early in our history the problems facing the nation, while acute, were sufficiently simple that what citizens favored and what best served the national interest were essentially synonymous. Further, the desire of the professional politicians to achieve electoral immortality had not yet developed. Hence, in the early part of the 19th century a Congressional election saw nearly half of the members of the House of Representatives enter as freshmen.

Now the situation is vastly different. The problems the nation faces—energy, inflation, unemployment, imbalances in international trade and payments, the Middle East and African problems, crime—are complex. Citizens often lack basic facts essential to enlightened judgment. Members of the Senate and House have their staffs do publicly financed research, and committees hold prolonged hearings, often for months, on a single problem. A senator or representative therefore develops knowledge superior to that of most of his constituents. The task of statesmanship is for a congressman to vote for what is right (that is, what is best for the nation) and seek to inform constituents, convincing them, we hope, that his vote was the correct one.

Unfortunately, with no limitation on terms of office, there is always the temptation to please constituents rather than to promote the national welfare. One need only think of two problems—inflation and the devastating effect of the coal strike—to realize that members of the Senate and the House lack the courage to vote for what is needed, for in doing so they would offend powerful interest groups that have strong influence in political elections. Incumbents have found that the way to achieve electoral immortality is to behave as pressure groups wish.

The cost of a congressional election is now nearly 75 times as great as it was 90 years ago; in that costly process the advantages are with incumbents. They have the franking privilege. Every member is likely to have one or two employees on the public payroll who work almost exclusively in preparing for the next election. And of course the greater newsworthiness of incumbents helps them. The consequence is that today the historic turnover in the House of Representatives in each election has been reduced to less than 15 percent.

Limited terms for representatives and senators would eliminate the evils of the seniority system. It is true, as the Post said, that Congress could change the seniority system without having a constitutional amendment on limited terms. But the problem has been evident for a long time, and little corrective action has been taken. I see no reason to believe that the House and Senate will radically change the rules.

¹ The writer is a retired university president.

The major reason for limited terms for elected representatives applies also to the president. The chief executive should be limited to a single six-year term. He should have no incentive other than that of serving all the people, yet who is there today who cannot recall far-reaching and costly programs proposed and vigorously supported by presidents because they had wide temporary appeal yet proved in time to be wasteful and ineffective? Nearly every president in modern times has favored policies and programs that would contribute to his reelection. If there were evils in permitting the president to run for a third term—as the Congress and states decided—those same evils apply to election to a second term. Why, in our current economic disarray, have elected officials, including the president and governors, failed to uphold the law in the crippling coal strike? Why did they permit union miners to threaten and intimidate non-union miners so effectively that most non-union mines had to close? Why, when the Taft-Hartley Act was imposed, did not federal and state chief executives see to it that the law was observed?

The reason is obvious. The president and many governors are eligible for re-election. Pressure groups must not be offended—the political imperative.

That example, which involves an incumbent president and a few incumbent governors, could be duplicated with respect to policies and programs initiated by their predecessors.

A single six-year term for the president is gaining widespread support, and many states now limit governors to single terms. I think I may live to see the appropriate constitutional amendment adopted to limit the president to one six-year term. It may take longer to persuade the Congress to reform itself.

[From the Washington Post, Oct. 30, 1977]

POLITICS OF ENDURANCE

(By George F. Will)

T. S. Eliot warned against "dreaming of systems so perfect that no one needs to be good." But the oldest American political tradition is the search for institutional arrangements that minimize reliance on public spiritedness. An idea in that tradition—an idea that would make a kind of greatness impossible—is enjoying new currency.

The Foundation for the Study of Presidential and Congressional Terms has been formed to consider, among other questions, whether there should be limits to the number of terms members of Congress can serve. It is an old question in American politics.

Critics argued during ratification debates that the Constitution would produce an alien and irresponsible governing class—a "government of strangers"—because it did not provide for compulsory rotation of elective offices. Today interest in compulsory rotation has again become acute, again because of fear of a "professional political class."

Morris Fiorina, a professor at the California Institute of Technology, notes that during the 19th century, 40 to 50 per cent of congressional seats changed hands in each election. Not until the turn of the century did the average continuous service of congressmen reach even five years. But since World War II, nearly 90 per cent of incumbents seeking reelection have been successful. The number of "marginal" districts (where the winner receives 50 to 55 per cent of the votes) has declined. For example, in 1972 fewer than 25 per cent of incumbents received less than 60 per cent of the votes, and 90 per cent of all winners received more than 55 per cent.

According to Fiorina, the growth of the federal role in American life, and the attendant growth of bureaucracy, has enabled congressmen from formerly "marginal" districts to base their appeal on noncontroversial activities. These include delivering benefits from the "social pork barrel" and doing "casework"—nonpartisan constituent services, such as helping voters cope with regulatory agencies. Today, Fiorina says, congressmen are perceived less as legislators than as ombudsmen for dealing with Washington.

John Danforth (R-Mo.), a freshman senator and a director of the foundation, proposes a constitutional amendment to limit senators to two terms and congressmen to six. Today 32 of 100 senators (32 per cent) and 133 of 435 representatives (30.5 per cent) have been in office more than 12 years.

Such an amendment is a recipe for further reducing the power of the legislature relative to the "permanent government," the executive bureaucracy. It would prune deadwood, but also would prevent great legislative careers on the scale of Henry Clay's, Sam Rayburn's and Robert Taft's—the sort of careers that give continuity, cohesion and energy to the legislature. Besides, a "fresh face" is by another name a "rookie," with a lot to learn in a town where there is a lot to know.

Dennis DeConcini (D-Ariz.), another freshman senator and a director of the foundation, favors compulsory rotation of offices in order to produce "citizen-legislators" who "come to government briefly, bringing their varied experiences to bear on current problems. . . ." But it is sentimental to think that the "varied experiences" of the average citizen can be usefully "brought to bear" on the most important complexities (strategic arms, welfare reform, capital formation) of public policy.

Reformers also should consider that compulsory rotation of offices might mean "citizen legislators" who are, increasingly, older and wealthier amateurs. That might not be bad, but it should be considered. If no one can hope to make a career of politics, people will be more apt to enter politics later, after establishing a "real" career, and after establishing it so well that he or she can take a sabbatical.

"Serving as a member of Congress should not be viewed as a profession," says Danforth, "and it should never become a career." Americans cling to the idea that government in a modern state can be an amateur's avocation. But in government, as in other serious enterprises, knowledge is cumulative. Government is as much a profession as law or teaching; it is a learned activity and an increasingly complicated one.

Politics in our time has been ennobled by the long careers of such senators as John Stennis, Hubert Humphrey and Henry Jackson. Granted, long service is only a necessary, not a sufficient, condition of legislative greatness. Granted, greatness is rare, even among those who have long careers. But it should not be made impossible.

THE CASE FOR THE CITIZEN LEGISLATOR

(By Dennis DeConcini¹)

With his usual flair and wit, George Will recently attacked a constitutional amendment introduced by Sen. John Danforth (R-Mo.) and me. The amendment, which would limit the number of terms representatives and senators could serve, was characterized by Will as the work of "rookies" who have "a lot to learn in a town where there is a lot to know."

Ostensibly, Will's comments addressed themselves to the practicalities of Washington politics. His point is that it takes a long time to find the secret hideaways in the Capitol and to learn to pull the levers of power. And in the absence of that knowledge (government "is a learned activity"), the bureaucracy will overwhelm the legislature.

As a practical argument, Will's position is not compelling. The 22nd Amendment prevents an individual from holding the office of President for more than 10 years. I am sure Will would concede that the responsibilities of a President are equal to those of a senator or representative—he might even be tempted to argue they are greater. After all, we demand of our Presidents that within a matter of months they put together an administration, develop a national policy, deal with international crises, serve as party leader and assume all the responsibilities of head of state. If the consequences of limiting the terms of senators and representatives are dire, as Will suggests, surely we should insist that the 22nd Amendment be repealed; perhaps we should insist that Presidents serve three, four or even five terms.

The legislature is the bar of the people. It should be an elite group of professional decision-makers, removed by time, distance and experiences from the people it serves and represents. To Will, the notion of a "citizen legislator" may be corny and naive; to me, the growing reality of the "professional legislator" is frightening. It is yet another step away from the democratic ideal and another step toward rigid, unrepresentative institutions.

¹ The writer is a Democratic senator from Arizona.

In an age when the universal complaint is the apathy of our citizenry, we should be developing the institutional structures necessary to provide more opportunities to participate meaningfully in the political process. The philosopher Rousseau observed that the degree of commitment an individual has to the rules that govern him is directly related to the extent of his participation in their formation. The bonds of community presupposed by democratic order are rooted in this principle. As opportunities to participate decline, disaffection and alienation grow, the authority of both public and private institutions withers.

Limiting the terms of senators and representatives is no panacea for our social and political ills. But it may make our legislature more responsive and sensitive to our diverse interests. Ultimately, it is not the purpose of the legislature to govern; it is the purpose of the legislature to develop the national consensus necessary for legitimate governing.

Broad and often unchecked power tends to accumulate to long-term survivors in the political arena. A limitation of terms would restrain its growth. The framers of the Constitution were political realists who sought to create institutional barriers to protect against the capricious exercise of power. And, thus, a limitation of terms fits that spirit. Furthermore, the framers did not intend that the vagaries of electoral politics should determine which states and which citizens benefit most from the federal system. Length of tenure goes hand-in-hand with the political pork barrel.

One final note; Re-election to office is often not vindication by the electorate. No astute observer of the contemporary political scene like Will is oblivious to the tremendous advantages of incumbency. Election breeds re-election. The result is an overemphasis on constituent service at the expense of policy-making. Too many representatives and senators see themselves not as architects of the political and policy consensus, but solely as ombudsmen intervening with the ruling bureaucrats. Limiting terms forecloses making a career of the legislature; the overwhelming concern for job security will be removed, creating a shift in attitude, orientation and priorities.

