has developed, but they give a good indication of the great contributions that Dr. Foster has made.

Mr. President, there has been much discussion about Dr. Foster performing abortions. Abortion is a legal procedure that should not disqualify Dr. Foster or any other nominee from Federal appointment. In response to some remarks about this performing abortions, Dr. Foster states that he believes abortion should be safe, legal, and rare, ''but [his] life's work has been dedicated to making sure that young people don't have to face the choice of having abortions.'' With efforts such as the I have a future program, Dr. Foster has shown this dedication.

Mr. President, there are several things that have been twisted and misinterpreted in looking at Dr. Foster's career. We must look at this total record, and his commitment to working with young people, parents, and teachers to ensure we do decrease teen pregnancies, do decrease the number of low birthweight babies, do decrease the number of children living in poverty, and do decrease the number of abortions performed in this country.

I have heard from numerous medical groups in support of Dr. Foster, including, the American Medical Association, the American College of Obstetricians and Gynecologists, American College of Physicians, American College of Preventive Medicine, and many more. His distinguished career, and his commitment to the health of women and children, eminently qualify Dr. Foster for the position of Surgeon General.

I look forward to his consideration by the full Senate.●

CONSTITUTIONAL AMENDMENT TO IMPOSE CONGRESSIONAL TERM LIMITS

● Mr. LEAHY. Mr. President, I find curious the delay in the filing of the Senate report on the constitutional amendment to impose congressional term limits. When this matter was first listed on a Judiciary Committee agenda back on January 18, our Republican colleagues seemed in a tremendous rush to proceed on this matter, one of the 100 or so constitutional amendments introduced so far this Congress. When the Judiciary Committee voted to report Senate Joint Resolution 21 to the Senate back on February 9, the rush continued. The fervor seems to have cooled for now here in the Senate. Indeed, it took the majority 3 weeks to circulate a draft report. The committee was asked last Thursday to reconsider the procedural manner in which the resolution was reported, and as far as I can tell, the committee report is still yet to be filed.

I have no problem with the majority putting off consideration of this matter, which I oppose. The proposal is, in my view, a limitation on the right of the people to choose their representatives. I am concerned that our House colleagues will not have the benefit of our views when they take up this matter next week.

Because I have no assurance that the Senate report will be printed and available to them in time for their debate, I ask to include in the RECORD my opposition views, which were submitted to be included in the committee report back on March 3, and which I hope will appear in the Senate report, if and when it is printed.

The views follow:

ADDITIONAL OPPOSING VIEWS OF SENATOR PATRICK LEAHY IN OPPOSITION TO SENATE JOINT RESOLUTION 21, A CONSTITUTIONAL AMENDMENT TO IMPOSE CONGRESSIONAL TERM LIMITS

I oppose this constitutional amendment. The Constitution does not set congressional term limits, trusting to the people to decide who will best represent them. Indeed, this proposal is, in essence, a limitation on the rights of the electorate. I reject it as such.

I urge my colleagues not to be afraid to do the right thing, even if it does not appear from certain polls to be the currently popular thing, and stop demagoguing constitutional amendments as the cure to our ills. Our Constitution has served us well, over more than 200 years. It is the cornerstone of our vibrant democracy. It has been amended only 17 times since the adoption of the Bill of Rights in 1791—and two of those were prohibition and its repeal.

The Constitution is now under attack. The fundamental protections of separation of powers and the First Amendment are under siege. In the opening days of this Congress almost 100 constitutional amendments have been introduced. One, the so-called balanced budget amendment, has already been passed by the House and been narrowly defeated in the Senate. We risk making a mockery of Article V's requirement that we deem a constitutional amendment ''necessary'' before proposing it to the states.

One way to consider the impact of this proposed amendment is to look at who would not be here currently were this 2-term limit already part of the Constitution. The 2-term limit contained in S.J. Res. 21 would eliminate all of us who have been returned to the Senate by our constituents after standing for reelection more than once.

Think for a moment what imposing such a limitation would mean to the Senate. For example, are Senators Thurmond, Hatfield, Stevens, Packwood, Roth, Domenici, Chafee, Lugar, Kassebaum, Cochran, Simpson and Hatch, and Senators Byrd, Pell, Kennedy, Inouye, Hollings, Nunn, Glenn, Ford, Bumpers, Moynihan, Sarbanes, Biden and others not possessed of judgment and experience on which we all rely and on which their constituents depend? What of the Majority Leader, Senator Dole, should he have had to retire in 1980 after serving only two terms?

Consider what this type of measure would have meant over our history. Those who have served beyond two terms include among their ranks some of our most distinguished predecessors. Each of our Senate Office Buildings, in fact, is named for a Senator whose service would have been cut short by the type of term limit being proposed as a constitutional amendment: Richard Russell, Philip Hart, Everett McKinley Dirksen. It is a loss when illness takes such leaders from us; it would be a tragedy to have denied the country and their constituents their service through an arbitrary rule limiting congressional terms.

Think about Kentucky's Henry Clay; South Carolina's John C. Calhoun; Missouri's Thomas Hart Benton; Ohio's Robert Taft; Iowa's William Allison; Michigan's Arthur Vandenberg; Arizona's Carl Hayden and Barry Goldwater; Maine's Margaret Chase Smith and George Mitchell; Vermont's Justin Morrill and George Aiken; Massachusetts' Daniel Webster and Charles Sumner; Montana's Mike Mansfield; Washington's Scoop Jackson; North Carolina's Sam Ervin; Arkansas's William Fulbright; New York's Jacob Javits; Wisconsin's William Proxmire and the LaFollettes; Minnesota's Hubert H. Humphrey; Tennessee's Howard Baker, Jr. Such lists invariably leave out many who distinguished themselves through their service into a third Senate term.

Voters have not had any trouble electing challengers in the last several years. In 1978, 1980 and 1986, numbers of incumbents were defeated in primaries and general elections for the United States Senate. From the last election, one-third of those elected to the Senate are serving in their first terms. In the House of Representatives fully one third of the Members are beginning their first or second terms. The electorate does not seem to have a problem deciding whom to elect and whom not to reelect.

Indeed, rather than debating a constitutional amendment to impose term limits, our time might be better spent thinking about why more and more of our respected colleagues are choosing to abandon this body. Our friend from Colorado, the Chairman of the Constitution Subcommittee, has already announced that he will not seek reelection in 1996, after five terms in the House but only one here in the Senate. The senior Senator from Illinois, the Ranking Democrat on the Constitution Subcommittee, has also announced that he will not seek reelection after five terms in the House and two terms here in the Senate. The distinguished Ranking Democrat on the Energy Committee, the senior Senator from Louisiana has announced his intention to return to Louisiana.

Last year, George Mitchell and a total of nine of our colleagues in the 103rd Congress chose not to seek reelection. The Congress has become less and less a place where Members choose to run for reelection.

I respect my colleagues for doing what they think is right for themselves and their families. I commend those who like Hank Brown and our freshman colleagues believe strongly in term limits and conform their own actions to that rule. I urge them, however, to stop short of seeking to impose their view on all others and upon all other States for all time by way of this constitutional amendment.

The reality is that this is an institution that is called upon to deal with many important and complex matters, where judgment and experience do count for something. Some sense of history and some expertise can, from time to time, be helpful in confronting our tasks and fulfilling our responsibilities to our constituents and the country. Thus, I do not believe that a one-size-fits-all limit on congressional service makes sense.

Further, as the representative of a small State, I am acutely aware that we fulfill the purposes of the Senate and sometimes best represent our States when we have a bit of seniority and a track record on the issues. I believe, as did our Founders, that it is up to the people to let us know if we seek to overstay our term of service.

Before we embark on this course to rewrite the work of the Founders and impose an artificial limit on the length of congressional service, we should know what evil this constitutional amendment is intended to reach? On this the proponents speak in conflicting voices—some urging that term limits will make us more responsive to the electorate

and others arguing that it will give us greater distance and independence from them. Which is it?

It is remarkable that while the majority's rhetorical flourishes raise to new heights the mythological citizen-legislator and the majority report discusses everything from Aristotle, ancient Greece and term limit suggestions that were rejected by the Founders in the ''final draft of the Constitution,'' to bills, amendments and resolutions not considered by the Judiciary Committee, it nowhere discusses—let alone justifies—the specific congressional term limits it seeks to impose. The sole hearing into this matter was focussed in large part on proponents arguing that a 6-term limit for the House was ''no limit at all'' and that to include such a provision in this measure amounted to ''phony term limits,'' since 12 years is longer than the average term of service in the House. Nowhere in its long-delayed report does the majority discuss Senator Kyl's amendment to double the House term limits from three to six terms, hint at the controversy surrounding this key, substantive provision, nor indicate that it would invalidate limits adopted in over 20 states.

Further, the majority gives no consideration to the effectiveness of limiting terms of only one group of actors in our political democracy. Will we also limit the tenure of professional staff? Will we limit the number of years someone may lobby the Congress? Why not limit the years that someone can serve as a political consultant, a pollster, or an adviser? Are we prepared to venture into campaign reform and limit the number of times a person may contribute to Senate races over time? If not, term limits on candidates will only serve to increase the influence of these other groups at the expense of the people.

Do we expect first-term Senators intent on reelection to be less responsive to lobbyists and political consultants? For those who succeed in being reelected to a second and final term, will they be oblivious of the need to earn a living in succeeding years? With no prospect for a career in public service, Members of Congress may become more solicitous of ''special interests'' as they look beyond their lame duck status to new career opportunities.

Despite good intentions, this proposed constitutional amendment would not give us a citizen-legislature but, instead, a legislature made up of those independently wealthy and capable of taking 12 years from building a career outside this body to serve as philosopher-kings for a time.

I must oppose what I perceive to be a growing fascination with laying waste to our Constitution and the protections that have served us well for over 200 years. The First Amendment, separation of powers, the power of the purse, the right of the people to elect their representatives should be supported and defended. That is the oath that we all swore when we entered this public service. That is our duty to those who forged this great document, our commitment to our constituents and our legacy to those who will succeed us.

The Constitution should not be amended by sound bite. This proposed limitation evidences a distrust not just of congressional representatives but of those who sent us here, the people. Term limits would restrict the freedom of the electorate to choose and are based on disdain for their unfettered judgment. These are not so much term limits on the electorate to choose their representatives.

To those who argue that this proposal will embolden us or provide us added independence because we will not be concerned about reelection, I would argue that you are turning our democracy on its head. This proposal has the effect of eliminating accountability, not increasing it.

It is precisely when we stand for reelection that the people, our constituents, have the opportunity to hold us accountable. This proposal would eliminate that accountability by removing opportunities for the people to reaffirm or reject our representation of them. It would make each of us a lame duck immediately upon reelection.

Thus, my fundamental objection to the proposed constitutional amendment is this: It is, at base, distrustful of the electorate. It does not limit candidates so much as it limits the rights of the people to choose whoever they want to represent them. We should be acting to legislate more responsively and responsibly, not to close off elections by making some candidates off limits to voters. I will put my faith in the people of Vermont and keep faith with them to uphold the Constitution.

LEAHY AMENDMENT

When this matter reaches the Senate for debate, I intend to offer an amendment, along the lines of the one that I offered during the course of the Judiciary Committee's deliberations. I will try to move us toward an honest discussion of what this amendment would mean and what impact it would have on Congress. When politicians talk about imposing term limits, they tend to support proposals that, on examination, will not affect them. Thus, I have pointed out that S.J. Res. 21 is drafted so as not to affect adversely any of us.

This proposal is designed to become effective after the ratification process, which may itself take seven years. Thereafter, and only thereafter, are we to start counting terms in office for purposes of these constitutional term limits. Thus, this proposal is drafted so that some of us can get in two more successful reelection campaigns before we have even to start counting terms toward the 2-term limit. I suspect that all of us expect to be ''former'' Senators in 2020 after as many as four more terms, anyway. That is all that this amendment contemplates.

By contrast, my amendment will have the affect of making these constitutionally-mandated congressional term limits apply to each of us immediately upon ratification. Thus, the 2-term limit would apply to each of us then currently serving. Those of us serving in our second term, or greater, would be able to serve out the remainder of that term. Those in their first term in the Senate at the time of ratification would be able to run for reelection, once.

As I noted in the course of the Judiciary Committee's deliberations, my amendment would conform the congressional term limits amendment to the transition rule adopted in the 22nd Amendment, which imposed term limits on the President. The 22nd Amendment provides that it would ''not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.'' The 22nd Amendment did not say that the President serving at the time of ratification could be elected to two more, 4-year terms. It is noteworthy that this precedent continues to be ignored by the majority.

As reported, S.J. Res. 21 includes language in section 3 intended to provide special privileges to those Members who are serving at the time of ratification. Thus, all prior and current service is to be disregarded and Members serving at the time of ratification are to be accorded the prospect of two additional 6-year Senate terms and six additional 2-year House terms, regardless of the number of prior terms in the Senate or House. Rather than have the constitutional amendment eligibility limitations apply to everyone, S.J. Res. 21 is drafted so that Members serving at the time of ratification would be accorded the special privilege of being able to complete their current terms and then start over, counting from zero, with respect to elections and service toward term limits. This is, in the words of a member of the Committee who voted in favor of the constitutional amendment ''transparent hypocrisy.''

A few examples indicate the unfairness of these special privileges:

Senators elected after ratification would be locked into inferior status in terms of seniority, chairmanships, committee assignments and staff allocations. By contrast, Senators serving now and at the time of ratification would have their seniority preserved and protected.

A Senator elected one day before ratification would be able to serve three full 6-year terms before the limits took effect.

A Senator first elected in 1990 could run for reelection to a second term in 1996, run successfully for a third term in 2002, see the ratification process subsequently completed in 2003, finish out the third term in 2008 and still be reelected to two more full terms through 2020 before being affected by any term limits. At the same time a new Senator first elected in 2004 would be restricted to two terms and be barred from serving past 2016. Thus, the older Senator would be able to serve four years past the forced retirement of the newer and for a total of 18 years more than the newer Senator.

Senators voting for the amendment ought to be willing to bind themselves to its terms and not just to bind others who follow in their footsteps. Yet during the Judiciary Committee markup, the following Senators voted for this popular proposal and against my amendment to have it apply to them fully upon ratification: Hatch, Thurmond, Simpson, Grassley, Brown, Thompson, DeWine, Kyl and Abraham.

The amendment I will propose to the Senate will strike 3 and its language excluding elections and service occurring before final ratification from the calculation of the term limits being imposed. Instead, the amendment will expressly provide that the term limits being imposed by the constitutional amendment would apply to Members serving at ratification.

In order to avoid a retroactive effect or canceling the results of a completed election, the amendment will allow Members serving at the time of ratification to complete their current term. The prohibition in the proposed constitutional amendment would then operate prospectively to forbid any Member serving a term at or beyond the term limit being imposed from seeking reelection.

The amendment will also be intended to remove the ambiguity created by language included in Section 1, which begins: ''After this article becomes operative, no person. * * *'' Unless stricken, this language might be interpreted to exempt Members of Congress serving before ratification from the effect of the constitutional amendment entirely. At the least, the language implies that the eligibility of those Members of Congress serving at ratification is intended to be determined by consciously disregarding their current and past elections and service.

Unless stricken this language could create a special class of Members and grant them special privilege from the full effect of the constitutional amendment at the moment that it is ratified. The irony is that many of the very Members who vote to impose term

limits on others elected in the future would secure for themselves special dispensation so that they may serve either an unlimited number of terms or as many terms as can be begun before final ratification plus an additional two terms in the Senate and an additional six terms in the House.

The effect on my amendment will be that upon ratification of this constitutional amendment to impose congressional term limits, our current terms of service will be considered. This is in keeping with the substance of the amendment and would give it full effect upon ratification, rather than waiting for another 12 to as many as 20 years before it takes effect. If constitutionally-mandated congressional term limits are necessary to solve an important problem, then why should the amendment to the Constitution exclude the very situation that it is being proposed to correct? We should not provide ourselves with special privileges and adopt rules for the next generation of Members. ''Grandfathering'' or ''grandparenting'' ourselves from the full effects of this amendment is not any way to proceed, if it is the will of the Congress and the States that we should proceed.●

MEASURE INDEFINITELY POSTPONED—S. 169

Mr. COATS. Mr. President, I ask unanimous consent Calendar No. 13, S. 169 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ FOR THE FIRST TIME—H.R. 1158

Mr. COATS. Mr. President, I inquire of the Chair if H.R. 1158 has arrived from the House of Representatives?

The PRESIDING OFFICER. Yes, the bill is at the desk.

Mr. COATS. Mr. President, therefore I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

A bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

Mr. COATS. Mr. President, I now ask for its second reading.

Mr. EXON. Mr. President, I object.

The PRESIDING OFFICER. The bill will remain at the desk and will be read a second time on the next legislative day.

ORDERS FOR THURSDAY, MARCH 23, 1995

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Thursday, March 23, 1995; that following the prayer the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; and that the Senate then resume consideration of the line-item veto bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COATS. Mr. President, for the information of my colleagues, Members who still have amendments on the list must offer those amendments by 10 a.m. Thursday morning. Votes can therefore be expected throughout Thursday's session of the Senate, including final passage of the pending line-item veto.

Mr. President, I want to repeat that. Those Members who still have amendments that are on the list, that have been cleared to be on that list under unanimous consent, must offer those amendments by 10 a.m. Thursday morning. Votes will be expected throughout the day, including final passage of the pending line-item veto bill.

ADJOURNMENT UNTIL 9:30 A.M. THURSDAY, MARCH 23, 1995

Mr. COATS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection the Senate, at 9:16 p.m., adjourned until Thursday, March 23, 1995 at 9:30 a.m.