

Term Limitation: Bringing Change, Competition, Control and Challengers to Congress

By James K. Coyne

My topic is what Will Rogers called the "only truly native American criminal class" — the U.S. Congress. His view, though a bit cynical, reflects modern public opinion. For nearly 50 years, Gallup and others have been asking the American public to grade or rate various professions. When they first started, members of Congress ranked pretty high, but over the past forty years, especially since 1975, the public stature of Congressmen has dropped and dropped to the point now where on some polls Congress is at the bottom of the list.

The Federalist papers predicted our modern dilemma: "... it is a cause for just uneasiness when we see a legislature legislating for their own interests in opposition to those of the people." Surely such is the case today when the American public consistently displays tremendous support for the concept of limiting Congressional terms — nearly 70 percent in most recent polls. And yet most members of Congress adamantly oppose the concept. Maybe they can't help themselves because they're addicted — addicted to reelection at all costs.

What they have done over the past few decades is to redesign electoral politics to assure that they will, in fact, always be reelected.

The hope of term limitation is to bring three or four simple things back to America. One is *change* in Congress. Despite a lot of talk and some hopeful signs back in the early 80's, Congress has become ossified. It no longer reflects American creativity and energy.

The second goal is *competition*. You all know from your own careers, your own businesses, even in the business of running an association like Heritage, that nothing improves an organization, an individual, or an entity like competition.

Thirdly, we want to bring *control* back to the electorate. As we've already learned, the people who control Congress today are the members of Congress, and they are effectively unaccountable.

Finally, we have to bring better *challengers* to the election process. In your home Congressional districts, each of you can sit down and draw up a list of 10, 20, perhaps 100 people who would make an outstanding member of Congress.

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I challenge you to ask those people: "Would you consider running for Congress?" Time after time, those good people will say, "You've got to be out of your mind. There is no logic that would lead me to take on an incumbent Congressman knowing that it will cost me thousands and thousands of dollars, exposing me to all sorts of outrageous campaign tactics, and, when it's all over, result in certain defeat."

What we need now is to return to a government of limits: good government is limited government, and a good Congress is one with limited terms. To do this, we're working to establish 50 different groups to enact term limitation legislation in each of the states. The group in Oregon is my favorite; they call themselves "L.I.M.I.T.S." — an acronym for "Let Incumbents Mosey Into The Sunset".

I know, however, that I'm speaking to the converted, especially after the two preceding speakers. You know the practical and philosophical argument for term limits.

Let me give you four simple numerical reasons: 28.6 percent, 99.3 percent, 37 years, and 37,388.

The 28.6 is the percentage of people in this country who are of voting age and who regularly vote in Congressional elections in this country — 28.6 percent. An unbelievable disgrace. All other industrialized democracies have much higher levels of voter participation.

But this is not because Americans are undemocratic, or shy, or afraid that they'll be called to jury duty. Fundamentally they don't vote because they know it doesn't make any difference.

In Virginia, we had a typical election in 1990. Of the ten members of Congress seeking reelection (there were no open seats), five had no opponent at all in either the primary or the general election. They just happened to be the 5 Democratic incumbents. The Republicans all had challengers.

But in the same election, the Republican Senator had no Democratic opposition, so half the voters who went into the polling booth on election day in Virginia essentially had the following choice: For Representative, the incumbent — or nobody else; for Senator — the incumbent, or nobody else.

We ask why people don't bother to vote? Because they don't think it'll make any difference.

The 99.3 is the percentage of unindicted incumbent federal and state legislators across this country who were reelected over the past decade — 99.3 percent.

It is hard to think of anything else in life that is as sure as 99.3 percent. Look at our

major corporations — they're laying off people left and right, chief executives are changing, all sorts of organizational changes throughout the economy and across the country.

Yet somehow through it all, our legislative bureaucracy, is secure.

The 37 is of course, as I'm sure you all know, is the number of years the Democratic party has controlled the U.S. House of Representatives — 37 years. Continuous control. There is not a single Republican in the House of Representatives today who knows what it is like to be in the majority.

During that period of time, the British House of Commons has changed hands 4 times, the French Chamber of Deputies has changed hands 3 times, the West German Bundesdag has changed hands 5 times, the Canadian House of Commons has changed hands 5 times, the Indian Loksabah has changed hands three times, and of course the Italian government has changed hands almost 4,000 times! (Seriously, it is only 40 or so.)

Of course some of you who are expert on Communist governments and legislatures realize that over that period of time, many Communist legislatures have effectively changed hands. Today, that process is rampant.

But again, through it all, the party of our national legislature remains the same. Now, of course, we have different people. Well, have we? Jamie Whitten, the Chairman of the Appropriations Committee, and in many respects one of the most powerful men in the Congress, has been in that body for 51 years. Remarkably, he has been chairman of the Agriculture Subcommittee for more than 3 decades. There are a few of us who feel that our nation's agricultural policy would benefit from some new blood.

The last number is 37,388. That is the current number of staff in Congress. Some people are afraid that if we have term limitations, it will lead to more powerful staff, that the situation will get worse.

First of all, how can it get worse? The staff have grown from 4,000 to 37,000 in the last 30 years! Who asked for all that staff? The senior members of Congress; they're the ones who vote for new staff, they're the ones who are tired of the real job of being a Congressman.

The new members of Congress who would be elected in an environment of term limitation would be like Jimmy Stewart in "Mr. Smith goes to Washington". They would come to Washington and want and need less staff.

I remember one staff member who, after I attended my first Banking Committee session and had asked my first question said, "But Mr. Coyne, we didn't give you a question to ask".

Such is the arrogance of the staff in Washington today. If we had scores of new members in Congress every two years, we would once again have a Congress we could control.

Clearly we're not getting change, we're not getting competition, we're not getting control and we're not getting challengers.

I submit that the solution is term limitations.

I have to admit that there have been some arguments against term limitations. One of the most superficial ones of course is that we have turnover in Congress, and therefore, we don't need term limitations. People do leave Congress, but usually for the wrong reason.

Let me give you the six reasons — in order — that members of Congress leave office.

Number one; they voluntarily retire. Most of them are volunteering to retire at a later and later age. So even in the retirement category we're seeing less activity, less turnover.

Number two; they run for higher office. They voluntarily decide to leave to find a more prestigious political title like Senator, Governor, or President. But here, too, we're seeing fewer voluntary departures because there aren't the openings in the Senate that there used to be, and many of them have decided that being a member of Congress isn't the springboard to national office it once was.

Number three; they die. Now I'm not sure that there's much we can do about that, but I point out that even there, they're dying later. So we shouldn't count on mortality to bring about change in Congress.

Number four; they are reapportioned out of office. While this does offer some hope for change — it comes but once a decade and with brazen Gerrymanderers like the late John Burton in California doing the redistricting, the result can be just as bad.

Number five; and this is an area of growth — they are arrested! Of the six members of Congress who were defeated in 1988, five of them were facing criminal indictment. But this technique can be slow and messy.

Despite our dreams of increased criminal prosecution of members of Congress, I don't think we can really count on it. The Keating Five saga illustrates how incumbents protect themselves.

And the sixth reason? The least likely reason for a person to leave Congress is defeat in an open, non-reapportioned, competitive election. It's gotten to the point where most members of Congress consider that a totally unlikely event — and let me tell you why.

It's because they, like many high school students, have discovered steroids. Now when I say "steroids" I don't mean the kind you stick into your veins to make you a stronger, more powerful, faster, taller, or more muscle bound athlete.

I mean the steroids you buy in 30 second slots, and put on television each election cycle to turn you into a super Congressman or woman.

Congressmen have learned the very simple truth: if they buy more of it than their opponent — they will, in almost every case, win reelection. It's almost as simple as that.

If you correlate almost any independent variable with election success in the past 25 years, you will find that nothing correlates with success like who spent the most money on television advertising.

It truly is a political steroid. It allows a Congressman to tell the public to forget about all the other things that have taken place in Washington and focus on one or two superficial messages, usually "constituent service" or some government spending that he has directed to the district.

But there's a problem with steroids, as even high school students have found. They cost money. For a Congressman to get the money he needs to buy steroids, he has to sell his soul; he turns to extortion.

The money is extorted from those groups who are subjected to the "oversight" of his committee or subcommittee, and, as you heard earlier, virtually every Congressman can become chairman or ranking member of a committee or subcommittee in a few election cycles. The message is simple: "I'm running for reelection, I'm having a breakfast tomorrow morning and it is going to cost you \$1000 to come, but don't bother to come to the breakfast — just send a check."

Now this might seem to be part and parcel of fair, effective politics, but let me explain the little idiosyncracies of today's fund raising.

Today, the politician asking for money may not even have an opponent. The 90 Congressmen who had *no* opponents in their reelection campaigns this past election cycle raised over \$15 million. That money was spent solely on themselves. Often this money was raised by members of Congress who knew or thought they were going to retire, and because of the law that they passed nearly a decade ago (allowing incumbent members of Congress elected before 1980 to take their unspent campaign donations with them), those so called "campaign donations" are in effect, personal donations.

Just think for a minute — a Congressman calling up a PAC that is regulated by his committee, let's say an S&L regulated by a Banking Committee member and saying, "come to my fund raiser, I need money for television advertising, I don't have an opponent but I

want to make sure I don't have an opponent, I want to scare him away, but if I don't spend the money on television advertising, I can put the money in my own pocket when I retire."

What is that? There is a word for that — it's called extortion. Legal extortion — And that's taking place today in *our* Congress.

Clearly we have to fight against this system, but many people who are opposed to term limitations say, "well, let's fix the individual problems, let's change campaign laws, let's change financing laws, let's change all of these things that are abused, let's change the staff, let's change the way members of Congress spend time in Washington" or what have you.

But think for a second: who is going to pass the laws that make the changes? The members of Congress. Then ask yourself the question, will they ever make these changes in a way that favors a challenger over themselves?

Have they ever done that?

All of the campaign reform, or so called "campaign reform" in the past 20 years, favors the incumbents. One of the reasons the incumbents like the idea of campaign disclosure is that they can go to the donors of their opponents and say, "I'm not going to let you into my office again in the next two years if I see you donate money to my opponent next time."

That's why PAC's have come to learn that the only person you give money to in American politics is the incumbent. Fifty-two new Republicans got elected in 1980 because 50 percent of the PAC money was gutsy enough to go to the challengers. Today only 4 percent of that PAC money is going to challengers. Every PAC has been brow-beaten into submission by the incumbents. "Don't you dare give a penny to a challenger, or I won't speak to you."

So what do we do? The best solution, I feel, is term limitation — and there are several different ways we can bring about effective term limitation. Fortunately, our founding fathers were a little smarter than the average politician; they knew there might be a situation where the interest of Congress would be different from the interest of the people — and so they allowed for two different ways to amend the Constitution; one the Congressional route and one the state legislature route.

That's why we're working in all 50 states to try to get each state to pass a call for a Constitutional amendment limiting Congressional terms to 6 years.

But there's another way: for individual states, on their own, to limit the terms of their federal legislators — as Colorado did this past year. As state after state follows that bandwagon, there is no doubt that eventually Congress will get the message. Eventually, term limits will be the law of the land. Until then — suffer — but please, not in silence.