

# CONGRESSIONAL TERM LIMITS: AN OPTIMISTIC ATTEMPT TO AN UNSOLVABLE ISSUE

DanaLynn Tolento\*

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## I. Introduction

In their Contract with America, Republicans promised disgruntled Americans that an Amendment to the Constitution would be enacted to institute term limits for United States Congressmen.<sup>1</sup> In the wake of the 1996 Elections, this promise still remains unfulfilled<sup>2</sup> because of the Republican party's failure to unite and defeat Democratic opposition to the Amendment.<sup>3</sup> Because the Republi-

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\* B.A., Political Science, The American University, 1994. J.D., Seton Hall University School of Law, anticipated 1998. The author would like to dedicate this note to her family for their constant love and support.

<sup>1</sup> See *CBS Evening News* (CBS television broadcast, Mar. 12, 1995). The Republicans' Contract for America, assured a vote on a constitutional amendment which sets term limits for members of the Senate and House. *Id.*

<sup>2</sup> See Joan Biskupic, *Congressional Term Limits Struck Down: Supreme Court's 5-4 Ruling Upsets Laws in 23 States*, BANGOR DAILY NEWS, May 23, 1995, at 1 [hereinafter Biskupic]. However, in March of 1995 four different versions of a constitutional amendment for term limits were defeated in the House. *Id.* The defeat was a result of Democratic opposition as well as veteran Republican opposition. *Id.* See also *CBS Evening News* (CBS television broadcast, Apr. 23, 1996). The most recent attempt to pass legislation to change the Constitution to institute term limits for members of Congress failed in the Senate on April 23, 1996. *Id.*

<sup>3</sup> See *infra* Parts II and III.

can party failed to keep its promise, the public is consequently dissatisfied with the Republican Majority.<sup>4</sup> The most recent Amendment aimed at establishing Congressional term limits was introduced by Senator Thompson of Tennessee.<sup>5</sup> Senator Thompson's proposal would have limited the terms of Congress members to twelve years.<sup>6</sup> On April 23, 1996, however, the bill was narrowly defeated in the Senate by a vote of 58 to 42.<sup>7</sup> Despite this defeat, Republicans remain confident that a Term Limit Amendment will eventually pass through Congress.<sup>8</sup>

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<sup>4</sup> See Sandra Sobieraj, *Activists Want Term Limits to be an Issue in '96*, Star Ledger, Dec. 10, 1995, at 3. [hereinafter Sobieraj]. Advocates of congressional term limits assert the Republican Majority on Capitol Hill has betrayed them. *Id.* These advocates will make the issue of term limits a decisive factor in the upcoming 1996 Election. *Id.*

<sup>5</sup> See *Term Limits Sen. Thompson Takes Lead in Fight for Constitutional Amendment*, KNOXVILLE NEW-SENTINEL, Apr. 11, 1996, at 14 [hereinafter *Term Limits*]. Fred Thompson, a United States Republican Senator, formed the Term Limit Amendment National Campaign. *Id.* This group was formed to work for the passage of Senate Joint Resolution 21, a constitutional amendment that would mandate term limits for members of Congress. *Id.*

<sup>6</sup> See 142 CONG. REC. S3717-03 (daily ed. Apr. 19, 1996) (statement of Sen. Thompson).

<sup>7</sup> See *Term Limits*, *supra* note 5, at 14. Proposed Senate Joint Resolution 21 limits service in Congress to a period of twelve years. *Id.* The Senate term would be six years and the Representative term two years. *Id.* See also GRAMS CALLS CLOSE VOTE ON TERM LIMITS A SIGN OF PROGRESS TOWARD MUCH-NEEDED CONGRESSIONAL REFORM, GOV'T PRESS RELEASE, Apr. 23, 1996 (statement of Rod Grams) [hereinafter GRAMS]. By a vote of 58-42, the Senate defeated a measure which would have "paved the way for a vote on the term limits amendment." S.J. Res. 21, 104th Cong. 1st Sess. (1995). *Id.* Forty Republicans struck down a House bill offered by Representative Bill McCollum of Florida which would have amended the Constitution to impose congressional term limits. Jack W. Germond & Jules Witcover, *Political Posturing Single-issue Activists Fail to Huff, Puff, Vote Opponents Down*, STAR LEDGER, Apr. 4, 1995, at 14. [hereinafter *Political Posturing*]. See Kenneth J. Cooper, *Lack of Democratic Support Imperils Term-Limits Bill*, WASH. POST, Jan. 12, 1995, at 4. Although most House Republicans are in support of putting an end to longtime congressional office, there exists great disagreement about how long the limit should be. *Id.* Similarly, problems exist, within the Republican party along generation lines. *Id.* New Republicans support term limits, whereas Congressman who have already served for several terms, like Strom Thurmond (SC) believe that no amount of time in office is too long. See *CBS Evening News* (CBS television broadcast, Apr. 20, 1996).

<sup>8</sup> See *Term Limits*, *supra* note 5, at 14. The Term Limit Amendment National Campaign urges both senators and citizens to support the grassroots effort for the passage of term limits. *Id.* Sen. Thompson stated, "We may Not win it, but it will serve as a base line and will provide us with a place to begin our efforts." *Id.* Senator Fred Thompson, Senator Patrick Leahy, Senator Inhofe, and Senator Don Nickles were among the many the Republican supporters of Thompson's proposal who did not lose hope after their close defeat. *Id.*

More than 75 percent of the American people favor term limits for members of Congress.<sup>9</sup> This tremendous amount of support reflects American discontent over the current level of productivity of Congress.<sup>10</sup> Likewise, most Americans believe that congressional term limits will end bureaucratic rhetoric.<sup>11</sup> Notably, twenty-three states enacted state legislation imposing limitations on congressional candidates.<sup>12</sup> However, in *U.S. Term Limits, Inc. v. Thornton*,<sup>13</sup> the United States Supreme Court held that it was unconstitutional for states to impose term limits on congressional candidates.<sup>14</sup>

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<sup>9</sup> See TOUGH DECISIONS GO BEGGING WITHOUT TERM LIMITS, GOV'T PRESS RELEASE, Apr. 17, 1996 (statement of Fred Thompson). Public opinion surveys illustrate over 75 percent of Americans favor term limits. *Id.* A 1991 poll shows that the broad support for term limits is not confined to a particular demographic group. 31 Tulsa L.J. 585 (1996). More than 22 States, have on their own volition sought to limit themselves by enacting term limit legislation. 142 CONG. REC. 9 (1996). With this in mind there can be no doubt about the sentiment of the American people regarding term limits. *Id.*

<sup>10</sup> See *supra* text accompanying note 9.

<sup>11</sup> See GRAMS, *supra* note 7. Grams asserted, "A vast majority of Americans see term limits as a way to restore public confidence in a system which is too often viewed as being dirtied." *Id.* See also Howard Chua-Eoan, *A Coming to Terms*, TIME, Dec. 5, 1994, at 41 [hereinafter *A Coming to Terms*]. The people of Arkansas sought to create their own term limits for elected officials. *Id.* They believe that Congressmen that stay, "in office for too long become preoccupied with re-election and ignore their duties as representatives of the people." *Id.*

<sup>12</sup> See 514 U.S. 779, 115 S. Ct. 1842 (1995). The ruling in *U.S. Term Limits, Inc. v. Thornton*, struck down an amendment to the constitution of Arkansas which established term limits. *Id.* The Amendment passed three years prior to the decision. *Id.* The decision also had the secondary effect of invalidating similar laws already passed in 22 other States, including: Alaska, Arizona, California, Colorado, Florida, Idaho, Maine, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming. See CONSTITUTIONAL TERM LIMITS, GOV'T PRESS RELEASE, Apr. 19, 1996, at 3 (statement of Don Nickles) [hereinafter NICKLES].

<sup>13</sup> See 514 U.S. 779, 115 S. Ct. 1842 (1995).

<sup>14</sup> See 514 U.S. 779, 115 S. Ct. 1842 (1995). Justice Stevens held that states may not impose qualifications for offices of a United States Representative or United States senator in addition to those set forth by the Constitution. 514 U.S. at \_\_\_, 115 S. Ct. at 1854. The Court further stated that the power to set additional qualifications for Congressional Officials was not reserved to the states by the Tenth Amendment. 514 U.S. at \_\_\_, 115 S. Ct. at 1846. Justice Stevens explained that a state provision is unconstitutional when it has a likely effect of handicapping a class of candidates and has the sole purpose of creating additional qualifications indirectly. *Id.* Justice Kennedy supported the majority opinion in *U.S. Term Limits, Inc. v. Thornton* which held that states could not limit the terms of members of Congress because the framers of the Constitution established the exclusive qualifications for members of Congress. 514 U.S. at \_\_\_, 115 S. Ct. at 1848. The Court came to its conclusion by interpreting the Qualifications Clause to list the exclusive qualifications for political office. 514 U.S. at \_\_\_, 115

The Court's decision left the American people with only two possible mechanisms to accomplish their goal of limiting Congressional terms: (1) an amendment to the U.S. Constitution, or (2) implementation of congressional term limits through a referendum at a national convention.<sup>15</sup> At this time, however, there is probably not enough support to implement congressional term limits.<sup>16</sup>

This note analyzes the constitutional, political, and historical issues surrounding the enactment of a congressional term limit amendment.<sup>17</sup> Part II will focus on the issues raised during historical debates<sup>18</sup> while Part III will discuss the applicable cases discuss-

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S. Ct. at 1845. In addition, Justice Stevens explained that state imposed term limits were a qualification that directly conflicted with our fundamental right to choose whom we wish to govern. *Id.* Justice Stevens continued by proclaiming that state term limit initiatives would also be inconsistent with the Founding Fathers intent to create and maintain a uniform National Legislature. *Id.* The list of criteria in the Qualifications Clause is not a list of minimum qualifications for states to follow with respect to their power over congressional representation. See Todd C. Zubler, *Federal Preclusion of State-Imposed Congressional Term Limits: U.S. Term Limits v. Thornton*, 19 HARV. J.L. & PUB. POL'Y 174, 176 (1995) [hereinafter Zubler]. The Qualifications Clause of the U.S. Constitution states, "[n]o Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen." See U.S. CONST. art. 1, § 2, cl. 2. In addition, "[n]o Person shall be a Senator who shall not have attained at the Age of thirty Years, and been nine years a citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen." See U.S. CONST. art. 1, § 3, cl. 3.

<sup>15</sup> *Congressional Term Limits Push Planned*, ASSOCIATED PRESS POLITICAL SERVICE, Feb. 22, 1996. A national convention would only occur if 34 states make the request to Congress for an amendment to the Constitution setting Congressional term limits. *Id.* It would take 38 states to ratify the amendment before it became part of the United States Constitution. *Id.* The amendment proposed in Missouri, for example, limits Senators to two terms and Representatives to three terms. *Id.*

<sup>16</sup> See Sobieraj, *supra* note 4. A constitutional convention would be extraordinary since support of thirty-four states is necessary to call one. *Id.* Organizers believe that the occurrence of a national convention to implement congressional term limits is unlikely. *Id.* In the history of the United States the constitutional convention called by the founding fathers has yet to be repeated. *Id.* Legislation imposing congressional term limits or to give the power to the states to create election limits is a viable alternative. *Id.* Passing legislation requires only a majority for passage rather than the two-thirds vote needed to change the Constitution. Kenneth J. Cooper & Helen Dewar, *Plan B: Limiting Terms by Statute; GOP Views Amendment's Failure As Issue Against Democrats in '96*, WASH. POST, Mar. 31, 1995, at 26. However, supporters are aware that both options require a tremendous amount of political support. *Id.*

<sup>17</sup> See *infra* Parts II-V.

<sup>18</sup> See *infra* Part II.

ing term limits.<sup>19</sup> Part IV will examine the numerous arguments that have been voiced in grass root campaigns to enact a term limit amendment.<sup>20</sup> Lastly, Part V will focus on the problems faced by legislators in formulating and implementing congressional term limits as well as the current status of term limit legislation.<sup>21</sup> This note will conclude by predicting the potential for term limits to infiltrate the bureaucracy on Capital Hill.

## II. *A Historical Overview of A Century Old Issue*

Recently, the issue of term limits has received tremendous attention from both the American people and the Republican congressional majority.<sup>22</sup> It was highlighted as one of the prominent components of the Republican's Contract with America.<sup>23</sup> The

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<sup>19</sup> See *infra* Part III.

<sup>20</sup> See *infra* Part IV.

<sup>21</sup> See *infra* Part V. See also *Term Limits a False Hype*, AUSTIN AMERICAN-STATESMAN, Apr. 25, 1996, at 14 [hereinafter *False Hype*]. There have been six votes in the past two years on term limit amendments. *Id.* See also, *Term Limits: The Fight Dies Hard*, TIME, June 5, 1995, at 25. Advocates of term limits are determined to keep fighting despite their defeat in the Supreme Court decision of *U.S. Term Limits v. Thornton*, and the rejection of term-limiting constitutional amendments in the House and Senate. *Id.* Rather their defeats have given them the strength to double their efforts to challenge their opponents in Congress. *Id.* See also John Ashcroft, *Public Wants Term Limits*, USA TODAY, Apr. 23, 1996, at 10. Nearly 25 million voters have embraced congressional term limits at the ballot box. *Id.* Surveys show that seven in ten Americans want term limits. *Id.* There exists an overwhelming level of support by American people for Congress to pass a congressional term limit amendment to the United States Constitution. *Id.* Despite public sentiment, congressional supporters of term limits have been unable to convince their fellow congressmen to listen to their constituents and vote in support of term limits. *Id.* In addition, the term limit movement has been impacted by the failure of the numerous term limit bills proposed to pass through Congress over the years. *Id.* There have been about 150 amendments proposed to set Congressional term limits in this 104th Congress. *Id.* The fact that congressional supporters of term limits have repeatedly only been able to bring about a mere handful of floor votes, is indicative of the challenge facing advocates of term limits. *Id.*

<sup>22</sup> See H.R. REP. NO. 104-67, 104th Cong., 1st Sess. 2 (1995). Recently, proposals to limit the terms of Federal and State office holders have become increasingly popular. *Id.* Since 1990, 21 states have passed measures which limit congressional terms. *Id.* These Limits vary in each state. *Id.* Some states specify a maximum amount of terms or years that members are permitted to serve. *Id.* Other states prohibit the names of candidates from appearing on the ballot when the candidate has served more than a specified period or where the candidate has been elected more than an allowed number of times. *Id.*

<sup>23</sup> See Lincoln Connolly, *Moving Down a Grass Roots Movement But Protecting the Crabgrass: Congressional Term Limits are Unconstitutional*, 50 U. MIAMI L. REV. 661, 668

concept of term limits, however, is not a new idea.<sup>24</sup> In fact, the Articles of Confederation contained a provision for the implementation of term limits.<sup>25</sup> However, enforcement of this term limit provision proved damaging to political careers.<sup>26</sup> For example, many politicians were forced out of elected office, including the renowned James Madison.<sup>27</sup> Thus term limits failed to maintain a high quality of Congressional candidates.<sup>28</sup>

The provision for term limits under the Articles of Confederation, however, was not a complete failure.<sup>29</sup> The issue sparked a long and heated debate regarding term limits among the founding fathers at the Constitutional Convention.<sup>30</sup> For instance, James Madison argued that term limits would have a detrimental effect

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(1996) [hereinafter Connolly]. Over three hundred Republican candidates for the House of Representatives signed the Contract with America and promised to vote on congressional term limits within the first one hundred days of the 104th Congress. *Id.* Additionally, many Senate Republicans have joined in the crusade to implement term limits. *See supra* notes 4-6 and accompanying text.

<sup>24</sup> *See* NICKLES, *supra* note 12, at 3.

Term Limits were in place before our Constitution was drafted. The Virginia Plan, the model for our current Constitution, contained term limits for elected officials; and in 1951, the 22nd amendment to the Constitution was ratified by three-fourths of the States, imposing term limits on the President. Following passage of this amendment, President Eisenhower added, "What is good for the President might very well be good for the Congress."

*Id.* Many Americans support the implementation of congressional term limits. *Id.* They hope term limits will reform the culture of Congress, like they already have at other levels of government including the President, state legislatures, governors, mayors, and city councils. Paul Jacob, *Forcing Term Limits*, WASH. TIMES, Feb. 12, 1997, at 18. *See* Connolly, *supra* note 23, at 665. The Articles of Confederation, which set the first ground rules of this country's federal structure, contained a term limits provision. *Id.* Although the term limitations were included in the Articles of Confederation, the States were sharply divided on the idea of rotation of office. *Id.*

<sup>25</sup> *See id.*

<sup>26</sup> *See* Connolly, *supra* note 23, at 665.

<sup>27</sup> *See id.* At the point when James Madison's talents were first recognized and utilized, the enforcement of the term limits provision in the Articles of Confederation forced him out of the political arena. *Id.* Although this was not the sole reason why the States sent delegates to Philadelphia to reform the Articles, term limits were excluded from the new document, the Constitution. *Id.*

<sup>28</sup> *See id.*

<sup>29</sup> *See infra* notes 33-35.

<sup>30</sup> *See Congressional Term Limits*, 63 U.S.L.W. ss, 29 (arguments before the U.S. Supreme Court Dec. 13, 1994) [hereinafter *Congressional Term Limits*]. The issue of term limits was a part of the debate at the Constitutional Convention since the Articles of Confederation had contained a rotation provision. *Id.* The Virginia Plan containing a rotation requirement was proposed to the Constitutional Convention. *Id.*

on all Americans by limiting the number of capable citizens to run for political office.<sup>31</sup>

Similarly, Alexander Hamilton assured term limit opponents that electoral qualifications were fixed in the Constitution and consequently could not be altered by Congress.<sup>32</sup> Thus, the Convention unanimously voted to reject the inclusion of such a provision despite the support for term limits by prominent political leaders.<sup>33</sup> The issue was revisited in 1789 by South Carolina Representative, Thomas Tucker who offered the first term limit proposal.<sup>34</sup> The bill, however, was defeated and term limits were not raised again until 1945.<sup>35</sup>

The Senate voted on term limits for the first time on March 12, 1947.<sup>36</sup> The resolution was introduced by Senator W. Lee O'Daniel of Texas.<sup>37</sup> Despite this resurgence for a demand for political responsibility, the O'Daniel resolution was defeated by a vote of 82 to 1.<sup>38</sup> Since this defeat, there have been several term limit proposals,<sup>39</sup> but only a few actual floor votes.<sup>40</sup> Many of the

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<sup>31</sup> See Kathleen M. Sullivan, Comment, *Dueling Sovereignties: U.S. Term Limits, Inc. v. Thornton*, 109 HARV. L. REV. 78, 84 (1995) [hereinafter Sullivan]. James Madison urged that vesting the power in Congress to set term limits would be "improper and dangerous." *Id.*

<sup>32</sup> See *id.* at 85.

<sup>33</sup> See S. REP. NO. 104-158, 104th Cong., 1st Sess. (1995). Thomas Jefferson frequently argued that term limitation was a way "to prevent every danger which might arise to American freedom by continuing too long in office." *Id.* When the Constitution was finalized, Jefferson stated, "One thing I dislike, and greatly dislike, is the abandonment in every instance of the necessity of rotation in office." *Id.*

<sup>34</sup> See *id.* Representative Tucker's proposal included a one year Senate term to be limited to 5 years in any six year period, and a two year House term to be limited to six years in any 8 year period. *Id.* The proposal was defeated on August 18, 1789. *Id.*

<sup>35</sup> See *id.* The Senate Judiciary Committee held the first term limits hearing on September 27, 1945. *Id.*

<sup>36</sup> See *id.* The first term limit hearings were held on September 27, 1945 by a subcommittee of the Senate Judiciary Committee. *Id.* The hearings discussed Senate Joint Resolution 21 which proposed the limit of six years for the President, Vice President and Members of Congress. *Id.*

<sup>37</sup> See *id.*

<sup>38</sup> See S. REP. NO. 104-158, 104th Cong., 1st Sess. (1995). After the defeat of the O'Daniel Amendment, the Senate Subcommittee on the Constitution would revisit term limits in hearings on March 14 & 16, 1978. *Id.* The Subcommittee considered S.J. Res. 27, and S.J. Res. 28, which limited Senators to two terms. *Id.*

<sup>39</sup> See Connolly, *supra* note 23, at 668. Term limit advocates have sporadically introduced bills to establish congressional term limits. *Id.* The House and Senate have introduced numerous proposals for term limits in every Congress since 1975. *Id.* The highest number, twelve proposals, occurred in the 95th and 103rd Congresses. *Id.* See

individuals who opposed congressional term limits believed it was a concept that would fade away.<sup>41</sup> The 1994 Election and the Republican Contract with America, however, have once again focused the attention of the American public and Capital Hill on the issue of congressional term limits.<sup>42</sup>

### III. *Judicial Responses on the Constitutionality of Term Limits*

Term limits have received an increased amount of attention in the courts as a result of the passage of term limit legislation in several states.<sup>43</sup> Opponents of term limits have moved to challenge

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also S. REP. NO. 104-158, 104th Cong., 1st Sess. (1995). Senator Hank Brown of Colorado offered an amendment to S.3 to limit the use by Representatives and Senators of public funds where they served more than 12 years in the Senate or House. *Id.* The amendment was tabled by a vote of 68 to 30 with the following Senators voting for the amendment: Bond, Brown, Burns, Coats, Cochran, Craig, D'Amato, Dole, Domenici, Garn, Murkowski, Nickles, Pressler, Seymour, Simpson, Smith, Stevens, Symms, Thurmond, Wallop, and Warner. *Id.*

<sup>40</sup> See 142 CONG. REC. S3864-01 (Apr. 23, 1996) (statement of Sen. Thompson). "The fact of the matter is that we have not had a vote such as this—a constitutional amendment on term limits for almost 50 years in this country." *Id.* Proposals for term limits have been "widely and wildly popular." *Id.* However, state and federal court decisions regarding legal challenges to such limits have been wholly negative. Coyle Marcia, *Court's Turn to Vote on Term Limits They're Politically Hot the High Court Must Decide if They're Constitutional*, NAT'L L.J., Nov. 28, 1994, at A1 [hereinafter Coyle].

<sup>41</sup> See *CBS Evening News* (CBS television broadcast, May 22, 1995). Mr. Tom Foley, former Speaker of the House of Representatives is quoted as saying, "My belief is that term limits are dead. That's my belief." *Id.*

<sup>42</sup> See *CBS Evening News* (CBS television broadcast, Mar. 9, 1995). During the 1994 Elections, Republicans promised that if elected they would bring about a vote on setting congressional term limits and that they would vote for the amendment. *Id.* Term limits were not previously a political-legal issue. See Coyle, *supra* note 40. However, it has become just that. *Id.* In the landmark elections in 1994, voters in several states approved congressional term limits. *Id.* This brought victory to the national movement in a remarkable 22 states in just four years. *Id.*

<sup>43</sup> See Dominic A. Iannicola, Note, 1994 U. ILL. L. REV. 683, 689 (1994) [hereinafter Iannicola]. With term limit initiatives in fifteen states receiving overwhelming support and passage into law, the court system has been faced with the duty of deciding the constitutionality of these laws. *Id.* See e.g. *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 115 S. Ct. 1842. The decisions in several landmark Supreme Court cases have also had a significant impact on the ability of legislators, State and Federal, to draft term limit legislation. See *id.* (holding that states may not enact legislation that places term limits on candidates for the office of the United States Representative or United States Senator). See also *Burdick v. Takushi*, 504 U.S. 428 (1992); *Anderson v. Celebrezze*, 460 U.S. 780 (1983) (holding that the section of the Constitution delegating authority to states to regulate election of presidential electors does not give states power to impose burdens on the right to vote, where such burdens are expressly prohibited in other constitutional provisions); *Storer v. Brown, Jr. et al.*, 415 U.S. 724



the constitutionality of these term limit initiatives.<sup>44</sup> As a result, the implementation of state imposed term limit laws were enjoined pending state and federal adjudication.<sup>45</sup> Intuitively, opponents feared the impact these controversial laws would have on the political process.<sup>46</sup> Consequently, opponents of term limits have appealed these cases to the United States Supreme Court.<sup>47</sup>

The first landmark decision to address placing limits on service of congressional office was *Powell v McCormack*.<sup>48</sup> In *Powell*, the defendant, Speaker of the House John McCormick claimed that Article I Section 5 of the United States Constitution<sup>49</sup> gave him the authority to exclude Adam Clayton Powell Jr. from office.<sup>50</sup> McCormick believed that Powell should be excluded from serving as a member of Congress because of Powell's alleged financial impro-

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(1974); *Powell v. McCormack et al.*, 395 U.S. 486 (1969) (holding that Congress is without the authority to exclude any person duly elected by his constituents, who meets all the requirements for membership expressly prescribed in the Constitution).

<sup>44</sup> See Connolly, *supra* note 23. See also *U.S. Term Limits v. Thornton*, 514 U.S. 779, 115 S. Ct. 1842 (1995); *Burdick v. Takushi*, 504 U.S. 428 (1992); *Storer v. Brown, Jr. et al.*, 415 U.S. 724 (1974); *Powell v. McCormack*, 395 U.S. 486 (1969).

<sup>45</sup> See generally 48 ME. L. REV. 313 (1996); Connolly, *supra* note 23; Sullivan, *supra* note 31, at 84; Iannicola, *supra* note 43.

<sup>46</sup> See *infra* Part IV.

<sup>47</sup> See *U.S. Term Limits*, 514 U.S. at \_\_\_, 115 S. Ct. at 1842 (1995) (holding that states may not enact legislation that places term limits on candidates for the office of United States Representative or United States Senator); *Burdick v. Takushi*, 504 U.S. 428 (1992); *Anderson v. Celebrezze*, 460 U.S. 780 (1983) (holding that the section of the Constitution delegating authority to states to regulate election of presidential electors does not give states power to impose burdens on the right to vote, where such burdens are expressly prohibited in other constitutional provisions); *Storer v. Brown, Jr. et al.*, 415 U.S. 724 (1974); *Powell v. McCormack et al.*, 395 U.S. 486 (1969) (holding that Congress is without the authority to exclude any person duly elected by his constituents, who meets all the requirements for membership expressly prescribed in the Constitution).

<sup>48</sup> See *Powell*, 395 U.S. 486, 494. The case focused on a resolution which excluded a member-elect from his seat in the House of Representatives. *Id.* The plaintiff, Adam Clayton Powell, Jr. claimed that the resolution was unconstitutional. *Id.*

<sup>49</sup> See U.S. CONST. art. I., cl. 5

<sup>50</sup> See *Powell*, 395 U.S. at 494. Following allegations that Powell was involved in financial improprieties, Powell was asked to step down while the oath of office was administered to the other members-elect pending the outcome of a committee investigation into his alleged unlawful activities. Sean R. Sullivan, Comment, *A Term Limit By Any Other Name?: The Constitutionality of State-Enacted Ballot Access Restrictions on Incumbent Members of Congress*, 56 U. PITT. L. REV. 845, 858 (1995) [hereinafter *Access Restrictions*].

prieties.<sup>51</sup> The Court reasoned that Powell had met the age, citizenship and inhabitancy requirements of the Qualifications Clause,<sup>52</sup> and he was duly elected by the voters of his district.<sup>53</sup> The Court concluded that while Article I, Section 5 of the Constitution vests the power in Congress to judge the qualifications of its members, such power did not give McCormick the authority to exclude Powell from his seat in the House of Representatives.<sup>54</sup>

Essentially, the Supreme Court opined that the Qualifications Clause in Article I of the United States Constitution<sup>55</sup> has the exclusive authority for setting standards for political candidates.<sup>56</sup> Thus, the Speaker's actions were found unconstitutional because he attempted to create an additional restriction not listed in the Qualifications Clause.<sup>57</sup> Opponents of term limits used the Court's rationale in *Powell* to support their movement.<sup>58</sup> They argue that congressional term limits are unconstitutional because they establish an additional restriction for electoral candidates.<sup>59</sup> This position is in clear violation of the holding in *Powell*.<sup>60</sup>

Supporters of term limits, however, reject *Powell's* holding,<sup>61</sup> focusing on the Court's rulings which have found election provisions constitutional.<sup>62</sup> For example, in *Storer v. Brown*<sup>63</sup> the Court upheld a California law requiring candidates to disaffiliate themselves from their political party before they run as an independent candidate.<sup>64</sup> Because the statute did not require any additional

<sup>51</sup> See *Powell*, 395 U.S. at 494. The full House voted to exclude Powell after a final conclusion by the committee. *Id.*

<sup>52</sup> See *id.* at 551. See *infra* note 52.

<sup>53</sup> See *Powell*, 395 U.S. at 551.

<sup>54</sup> See *id.* at 550. See *infra* notes 68, 69.

<sup>55</sup> See *supra* note 15 and accompanying text.

<sup>56</sup> See Sullivan, *supra* note 31, at 81. In *Powell v. McCormack* the Court found that, "even though the Constitution empowered each House to 'be the Judge of the . . . [q]ualifications of its own Members' neither House may add qualifications, such as ethical probity, that are not enumerated in the Constitution's text." *Id.* at 81.

<sup>57</sup> See *supra* notes 48-56.

<sup>58</sup> See *infra* Part IV.

<sup>59</sup> See *Powell*, 395 U.S. 486, 489.

<sup>60</sup> See *id.*

<sup>61</sup> See *infra* notes 63-67.

<sup>62</sup> See *Storer*, 415 U.S. at 728 (1974). See generally Anderson, 460 U.S. 790 (1982). See also *infra* notes 63-67.

<sup>63</sup> See *Storer*, 415 U.S. 724 (1974).

<sup>64</sup> See *id.* at 747-48. Before the candidate could run as an independent in the general election, this provision required the candidate to disaffiliate himself from his former party at least one year prior to the primary. *Id.* at 733-34. This provision

qualifications for holding political office,<sup>65</sup> it did not violate the Qualifications Clause.<sup>66</sup> In addition, the Court held that under the Time, Place and Manner, Clause the disaffiliation statute was a valid exercise of state power.<sup>67</sup>

Consequently, supporters of term limits argue that *Clement* and *Storer* prove that term limit legislation is constitutional under the Time, Place and Manner Clause.<sup>68</sup> Essentially, proponents argue that the holdings in *Storer* and *Clement* acknowledge that the state has the authority to constitutionally place burdens on candidates for state or federal legislature without violating the Qualifications Clause.<sup>69</sup>

However, in 1995, grassroots efforts of supporters to implement term limits through state legislation was destroyed.<sup>70</sup> In *U.S. Term Limits, Inc. v. Thornton* the United States Supreme Court overruled *Clements* and *Storer*.<sup>71</sup> Residents of Arkansas challenged a state amendment<sup>72</sup> that denied access to the ballot in congres-

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applied to both state and federal office. *Id.* See also Iannicola, *supra* note 43, at 690. Justice White wrote the decision and "explained that the compelling state interest in preventing political factionalism and maintaining the integrity of the party system justified the burden the disaffiliation statute placed on constitutional rights." *Id.* Thus, the Court held that under the Time, Place and Manner Clause the disaffiliation statute was a valid exercise of state power. *Id.*

<sup>65</sup> See *Storer*, 415 U.S. 724, 728, 729.

<sup>66</sup> See *id.* See also Iannicola, *supra* note 43, at 690.

<sup>67</sup> See *Storer*, 415 U.S. 724, 747-48.

<sup>68</sup> See Iannicola, *supra* note 43, at 690-691. Advocates of term limits attach great significance to the Supreme Court's decisions in both *Storer* and *Clements*. *Id.* See also 457 U.S. 957, 972-73 (1982). In *Clements v. Flashing*, the Court upheld a Texas law restricting access to political office. *Id.* The Texas law at issue specified that a justice of the peace could not run for a seat in the state legislature unless the term of office started after the expiration of the individual's current term of office. *Id.* See generally *Storer*, 415 U.S. 724 (1974).

<sup>69</sup> See Iannicola, *supra* note 43. Supporters of term limits are also able to make the argument that placing burdens on political candidates does not violate the candidates First or Fourteenth Amendment rights. See also 415 U.S. 724, 728 (1974) (holding that the disaffiliation statute is constitutional based on an equal protection analysis using the First and Fourteenth Amendments).

<sup>70</sup> See *infra* notes 71-78.

<sup>71</sup> See *U.S. Term Limits*, 514 U.S. 779, 115 S. Ct. 1842 (1995). See also *supra* note 68.

<sup>72</sup> See David A. Soley, *The Invalidation of the Maine Congressional Term Limits Law: A Vindication of Democracy*, 48 ME. L. REV. 314, 326 (1996) [hereinafter Soley]. On November 3, 1992, the people of Arkansas voted to amend their State Constitution. *Id.* The amendment limited the terms of their state and federal representatives. See also *U.S. Term Limits*, 514 U.S. at 1845.

sional elections to any person who had served three or more terms in the United States House of Representatives or two or more terms in the United States Senate.<sup>73</sup> The majority held that States may not impose additional qualifications on political candidates because the Tenth Amendment does not reserve this power to the States.<sup>74</sup> Furthermore, the Court stated that even if adding requirements to the Qualifications Clause was an original power of the States, the Framers intended to divest the States of that authority.<sup>75</sup> The Court concluded that allowing states to impose restrictions on political candidates would be contrary to the fundamental principles of a representative democracy.<sup>76</sup>

A majority of the Court also rejected the argument that the Arkansas' amendment was formulated as a ballot access restriction rather than an outright disqualification of congressional incumbents.<sup>77</sup> The Court noted that regardless of how one classifies the

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<sup>73</sup> See U.S. Term Limits, 514 U.S. 779 at \_\_\_, 115 S. Ct. at 1846-47 (1995). The Court held that it is unconstitutional for State legislatures to enact laws that set qualifications for elected officials which are not already listed in the Qualifications Clause. 514 U.S. at \_\_\_, 115 S. Ct. at 1845. See generally Sullivan, *supra* note 31.

<sup>74</sup> See *id.* The Tenth Amendment reads, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." U.S. CONST. amend. X.

<sup>75</sup> See U.S. Term Limits, 514 U.S. at \_\_\_, 115 S. Ct. at 1854. See also Zubler, *supra* note 14, at 176. Justice Steven's stated that, "electing representatives was a new right, arising from the Constitution itself and any state power over that right would therefore have to come from an express delegation to the States in the Constitution." *Id.* (quoting U.S. Term Limits at 1856). Justice Steven's also relied upon Madison's statement in *The Federalist* that read, "except for the qualifications listed in the Constitution, the door [of the House] is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or to any particular profession of religious faith." *Id.* at 177 (quoting U.S. Term Limits, 115 S. Ct. at 1857). Justice Stevens explained further that the Framers feared the States would undermine the National Legislature by not allowing their representation to participate. *Id.* The Framers feared that if the states were given power to set additional qualifications, they could possibly establish impossible qualifications. *Id.* Consequently the states could decline to allow any representatives in Congress. *Id.*

<sup>76</sup> See *Access Restrictions*, *supra* note 50, at 862. Relying upon the decision in Powell, the Court found that allowing states to impose term limit restrictions on candidates would be contrary to the Founding Fathers intent and would fundamentally impair the commitment to representative democracy. *Id.* Justice Stevens concluded that "allowing individual states to craft their own qualifications for Congress would thus erode the structure of the Constitution envisioned by the framers to form a more perfect union." See *CBS Evening News* (CBS television broadcast, May 22, 1995).

<sup>77</sup> See U.S. Term Limits, 514 U.S. at \_\_\_, 115 S. Ct. at 1844. "A state congressional term limit amendment is deemed unconstitutional when it has the likely effect of handicapping a class of candidates and ultimately has the sole purpose of creating

Arkansas amendment, it established an additional qualification for political candidates and was unconstitutional.<sup>78</sup>

As a result, *U.S. Term Limits* effectively invalidated 23 state term limit laws already enacted.<sup>79</sup> It also frustrated any further Congressional attempts to implement congressional term limits by statute.<sup>80</sup> Therefore, a constitutional amendment or a constitutional convention are the only means by which congressional term limits may be achieved.<sup>81</sup> Consequently, there have been an overwhelming number of proposals set forth by Senators and Representatives to enact such an amendment.<sup>82</sup>

#### *IV. The Benefits and Setbacks of Congressional Term Limits*

The array of term limit proposals that have filled the Congressional calendar in recent years has sparked heated debate over the effects of their implementation.<sup>83</sup> Advocates and proponents have

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additional qualifications." *Id.* Allowing candidates to run as write-in candidates does not make the amendment constitutional under the Election Clause, Art. I, § 4, cl. 1. *See Soley, supra* note 71, at 328.

<sup>78</sup> *See id.*

<sup>79</sup> *See supra* notes 70-77.

<sup>80</sup> *See Soley, supra* note 71, at 329. "The sovereignty in this nation is held by the people themselves, that is, the people who vote in any given election. These individuals, wisely or unwisely, determine who is to be elected—and their decisions cannot be altered by the Congress, by the States, or by a previous electorate." *Id.* Justice Stevens declared Arkansas Amendment 73 unconstitutional because states do not have the power to create additional qualification for candidates for office in the United States Senate or House of Representatives. *Id.* Amendment 73 provided that any person having been elected three or more terms as a member of the U.S. House or two or more terms in the U.S. Senate shall not be eligible to have his or her name placed on the ballot for another term. *Id.* It also provided that a disqualified person may however, serve if elected as a write-in candidate. *Id.*

<sup>81</sup> *See U.S. Term Limits*, 514 U.S. at \_\_\_, 115 S. Ct. at 1845. "State imposition of term limits for congressional service would effect such a fundamental change in the constitutional framework that it must come through a constitutional amendment properly passed under the procedures set forth in Article V." *Id.* *See also Sullivan, supra* note 31, at 79. After the 1995 Supreme Court decision invalidating state term limit initiatives advocates changed their game plan in the term limit war. *See Stephen J. Siegel, Rep. Klug Will Carry on Term-Limit Fight*, *Wis. STATE J.*, Dec. 8, 1996, at 1 [hereinafter Siegel].

<sup>82</sup> *See infra* Part V. *See also infra* note 114.

<sup>83</sup> *See generally* 142 CONG. REC. S3772-02 (daily ed. Apr. 23, 1996); 142 CONG. REC. S3864-01 (daily ed. Apr. 23, 1996); S. REP. NO. 104-158, 104th Cong., 1st Sess. (1995); H.R. REP. NO. 104-67, 104th Cong., 1st Sess. (1995); *Access Restrictions, supra* note 50; *Soley, supra* note 71. Congressional hearings and judicial proceedings have been the primary forums where advocates face off about Congressional term limits. *Id.*

voiced their views on the social need for term limits and, conversely, the social disruption that would result from term limits.<sup>84</sup> Most supporters believe term limits are an essential tool to restore confidence in the political system.<sup>85</sup> They believe that term limits will bring fresh ideas to Capitol Hill<sup>86</sup> which will result in the type of reform urged by constituents.<sup>87</sup> The term limit movement anticipates that the implementation of term limits will lead to the formation of a congressional delegation composed of a diverse group of people.<sup>88</sup> Supporters believe that these "new" congressional officials will make Congress a more representative legislative body.<sup>89</sup>

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<sup>84</sup> See generally 142 CONG. REC. S4083-01 (daily ed. Apr. 24, 1996); 142 CONG. REC. S3864-01 (daily ed. Apr. 23, 1996); 142 CONG. REC. S3826-01 (daily ed. Apr. 23, 1996); 142 CONG. REC. S3772-02 (daily ed. Apr. 22, 1996); See NICKLES, *supra* note 12, at 3; H.R. REP. NO. 104-67, 104th Cong., 1st Sess. (1995); *Term Limits Struck Down*, WASH. POST, May 23, 1995, at 14 [hereinafter *Term Limits Struck Down*]; *Congressional Term Limits, Constitution, Federalism and Property Rights Subcommittee of the Senate Judiciary Committee*, Jan. 25, 1995 (statement of Sen. Orrin Hatch); *Congressional Term Limits, Constitution, Federalism and Property Rights Subcommittee of the Senate Judiciary Committee*, Jan. 25, 1995 (statement of Edward H. Crane, President, CATO Institute); Mitch McConnell, *Representation Without Limitation; People should not be denied the right to vote for someone simply because of an arbitrary term limit*, WASH. POST, Mar. 23, 1995, at 27 [hereinafter McConnell]; S. REP. NO. 104-158, 104th Cong., 1st Sess. (1995).

<sup>85</sup> See GRAMS, *supra* note 7. American society has seen the abuses that occur in Congress and has felt the repercussions year after year. *Id.* These abuses occur when politicians put their long-term interest in being re-elected ahead of the interest of society and the nation as a whole. *Id.*

<sup>86</sup> See 142 CONG. REC. S3864-01 (daily ed. Apr. 23, 1996) (statement of Sen. Smith). In his support of Senate Joint Resolution 21, Senator Smith said, "Term limits will bring fresh blood and new ideas into the Congress and dilute the power of the seniority system." See also 142 CONG. REC. S3772-02 (daily ed. Apr. 22, 1996) (statement of Sen. Brown). In his speech in support of amendment 3698 Senator Brown stated that, "one of the great benefits of term limits is to bring into this body a group of people who have a broader wealth of practical experience." *Id.*

<sup>87</sup> See NICKLES, *supra* note 12, at 3. Apparently, society believes that once incumbents are prohibited from infiltrating the political process candidates with vision and new ideas will be voted into office. See 142 CONG. REC. S3727-01, (daily edition Apr. 19, 1996). See also, Dwayne A. Vance, *State-Imposed Congressional Term Limits: What Would the Framers of the Constitution Say?*, 1994 B.Y.U.L. REV. 429, 440-442 (1994).

<sup>88</sup> See 142 CONG. REC. S3772-02 (daily ed. Apr. 22, 1996). Supporters of term limits acknowledge that term limits will cause Congress to lose a few effective leaders but yet defend their position that Congress will gain new effective Members that will take over where the previous leaders once stood. *Id.*

<sup>89</sup> See 142 CONG. REC. S3864-01 (daily ed. Apr. 23, 1996) (statement of Sen. Kyl). In a floor debate, Senator Kyl expressed his belief that term limits will ensure a regular turnover in Congress thereby guaranteeing "that the people who make our laws have to live under these laws." See also *Congressional Term Limits, Subcommittee on the Constitution Committee on the United States Senate Judiciary*, Jan. 25, 1995 (testimony of Edward H. Crane, President, CATO Institute). "To achieve a citizen legislature it is

Advocates also argue that incumbency has led to the development of an electoral system that is not free, competitive, nor representative.<sup>90</sup> This is due to the inherent advantages possessed by incumbent candidates: the title, the money, and the resources necessary to overpower weak challengers.<sup>91</sup>

Conversely, opponents of term limits argue that the influx of “new” delegates would not result in a more diverse membership, rather the delegation would be composed of the wealthy and elite members of society.<sup>92</sup> As such, opponents posit that “new” political candidates would not be in touch with the needs and demands of average Americans, and therefore would fail to be more effective legislators.<sup>93</sup> Rather, opponents claim that members of the “new” delegation would enter into the political arena purely because they were among the elite few who could afford the luxury of dabbling in politics.<sup>94</sup>

Despite these claims of socially elite legislators, proponents

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imperative that our representatives in Congress—particularly in the House, which the Framers clearly intended to be the arm of government closest to the people—be not far removed from the private sector which, after all, they are elected to represent.” *Id.* Supporters assert that the high rate of incumbency effectively shuts the door of opportunity to the many qualified and talented Americans. 142 CONG. REC. S3772-02 (1996). “The pool of available talent in this country is incredibly deep. We have great resources. We have tremendous citizens. There are outstanding persons, and we ought to tap them and call them into the process.” *Id.* (quoting Senator Ashcroft). The fact that 91% of incumbents who run for re-election are re-elected means that a challenger only has a one in ten chance to defeat a current member of Congress. *Id.*

<sup>90</sup> See Biskupic, *supra* note 2, at 1. U.S. Term Limits Inc., a lobbying group argued that giving states power to regulate “the time, place and manner of congressional elections” would create unreasonable restrictions on incumbents. *Id.* It would create a system broader than intended by the creators of the Constitution. *Id.*

<sup>91</sup> See Siegel, *supra* note 81, at 1. Experienced candidates often decide not to enter the political race because they believe they do not stand a chance of winning with the current design of the system. *Id.* Supporters of term limits believe they are necessary to level the playing field between incumbents and challengers. *Id.* Further, term limits will guarantee that Congress is provided with new blood and ideas, and will ensure that the needs of constituents are properly addressed. See William Douglas, *Term Limits Rejection*, NEWSDAY, Feb. 13, 1997, at A21 [hereinafter Douglas].

<sup>92</sup> See NICKLES, *supra* note 12, at 3. Term limits would direct the members of Congress further in the direction of a economic and social elite. *Id.*

<sup>93</sup> See McConnell, *supra* note 83, at 27. Opponents argue that “[t]erm limits would also engender a new elitism and create ethical quagmires.” *Id.*

<sup>94</sup> *Id.* Young people of moderate means, who have family responsibilities and promising careers, would pass on an opportunity for a congressional career which is certain to be cut short. *Id.* Only the rich would be able to afford “a brief dilettante fling” with congressional politics. *Id.*

maintain that a "new" congressional delegation will greatly diminish the corruption that currently plagues Congress.<sup>95</sup> Proponents claim that those running for office will consider their time in office as a time to serve their fellow neighbor instead of a time to plan their campaign strategy for the following election.<sup>96</sup> Essentially, proponents believe that term limits will deter people from running for office for personal gain.<sup>97</sup>

Opponents counter that term limits will not eliminate the advancement of political self-interest by legislators, but instead will only shift the focus to obtaining job security after their terms expire.<sup>98</sup> In effect, the implementation of term limits would force legislators to spend the majority of their time securing a "soft landing."<sup>99</sup> Thus, term limits would not eliminate "personal agendas," they would merely shift the scope and context of politician's personal goals.<sup>100</sup>

Additionally, opponents suggest that term limits are "anti-democratic"<sup>101</sup> because they will diminish the public's fundamental

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<sup>95</sup> See NICKLES, *supra* note 12, at 3. Senators Brown, Thompson, Kyl, and Dewine emphasized that today's politicians are often career oriented and as such become too "ensconced in the trappings of power". *Id.*

<sup>96</sup> See H.R. REP. NO. 104-67, 104th Cong., 1st Sess. (1995). Supporters urge that term limits are necessary to create a "constitutional distance" to allow representatives to engage in "deliberative decision making." *Id.* This would serve the best interests of the nation, rather than their own re-election. *Id.*

<sup>97</sup> See 142 CONG. REC. S3826-01, 104th Cong., 2d Sess. (1996). Senator Inhofe believes that term limits would deter people from entering into politics for the wrong reasons. *Id.* He believes that the people who serve in Congress today have never been exposed to the "real world." *Id.* This leads to Representatives and Senators who are out of touch with the needs of the people. *Id.* See also *Congressional Term Limits, Subcommittee on the Constitution Committee of the Senate Judiciary*, Jan. 25, 1995 (testimony of Edward H. Crane, President, CATO Institute). As a supporter of congressional term limits, Edward Crane expressed his view, that America is best served by members of Congress who serve out of a sense of civic duty, but also who would rather live in the private sector, hold productive jobs in civil society removed from the governmental world of politics. *Id.*

<sup>98</sup> See *Congressional Term Limits*, Statement of Senator Orrin Hatch (R-UT) before the Constitution, Federalism and Property Rights Subcommittee of the Senate Judiciary Committee on Congressional Term Limits, Jan. 25, 1995.

<sup>99</sup> See *id.* A "soft landing" is a profession to follow their political career, upon departing from public office. *Id.*

<sup>100</sup> See *id.*

<sup>101</sup> See H.R. REP. NO. 104-67, 104th Cong., 1st Sess. (1995) (dissenting views). Opponents argue that term limits are unnecessary because the turnover of Congress is not low. *Id.* The rate for reelection for incumbents who actually seek reelection is rela-



right to choose whom they wish to govern.<sup>102</sup> Term limits would provide the government with the power to regulate the pool of acceptable political candidates, thereby infringing upon a fundamental right guaranteed by the First Amendment, the right to choose who they want to represent their interests.<sup>103</sup>

Adversaries of the term limit movement also argue that term limits will destroy the seniority system which has been a major factor in distributing power between the state delegations.<sup>104</sup> Specifically, destruction of the seniority system would weaken the influence of smaller states<sup>105</sup> and shift power from Congressional officials to congressional staff and lobbyists.<sup>106</sup> Some legislators have suggested this would create a new bureaucracy where corruption would surely flourish.<sup>107</sup>

Similarly, opponents believe term limits would result in the loss of effective and experienced leaders.<sup>108</sup> Legislators need experience to make the complex and often controversial decisions that

tively high. *Id.* They point out, however, that in and after 1990, 52% of the members of the House were initially elected. *Id.*

<sup>102</sup> See *Term Limits Struck Down*, *supra*, note 83, at 14. Opponents argue that term limits are not only unnecessary, but also deny voters the choice of keeping in office representatives who have done a good job and represent them in a way they wish to be represented. *Id.*

<sup>103</sup> See generally 142 CONG. REC. S3864-01, 104th Cong., 2d Sess. (daily ed. Apr. 23, 1996).

<sup>104</sup> See Congressional Term Limits, The Constitution Federalism and Property Rights Subcommittee of the Senate Judiciary Committee, Jan. 25, 1995 (statement of Sen. Orrin Hatch). The seniority system provides a clear basis for leadership. *Id.* The system consequently assists in keeping Congress from splintering into many different factions. *Id.* See also NICKLES, *supra* note 12, at 3.

<sup>105</sup> See 142 CONG. REC. S4083-01, 104th Cong., 2d Sess. (daily ed. Apr. 24, 1996). Senator Murkowski expressed his belief that term limits could diminish the influence of Representatives and Senators from States with small populations. *Id.* The possible consequence is that large states would have an unfair and unsurpassable advantage. *Id.*

<sup>106</sup> See *Congressional Term Limits, The Constitution Federalism and Property Rights Subcommittee of the Senate Judiciary Committee*, Jan. 25, 1995 (statement of Sen. Orrin Hatch). Term limits are a threat because they can cause a "massive and dangerous shift in power to an unaccountable federal bureaucracy." *Id.*

<sup>107</sup> See 142 CONG. REC. S3870, 104th Cong., 2d Sess. (daily ed. Apr. 23, 1996) (statement of Sen. Dodd). Senator Dodd asserts that term limits would lead to the replacement of congressional careers with reliance on permanent lobbyists, staff and special interests. *Id.* Instead of ending careerism, which term limits supporters claim is the source of corruption, term limits would create an unaccountable and un-elected staff bureaucracy that would run the Federal Government. *Id.*

<sup>108</sup> See NICKLES, *supra* note 12, at 3.

face them everyday.<sup>109</sup> Term limits may lead to a “new” delegation with diverse experiences but they will lack the necessary background to be effective legislators.<sup>110</sup>

Moreover, opponents argue that term limits would not temper the line between political bureaucracy and public frustrations.<sup>111</sup> They point out that in 1994, a year of tremendous voter discontent, ninety-one percent of incumbents seeking re-election were elected.<sup>112</sup> Thus, opponents argue that if the majority of society is unhappy, they should become more involved in the political system, most importantly by voting.<sup>113</sup> Essentially, opponents of term limits believe that the inherent nature of the electoral process will serve the same purpose of term limits.<sup>114</sup>

Finally, opponents assert that term limits are unnecessary to restore faith in the political process since there has been over a seventy percent turnover rate in Congress since 1980.<sup>115</sup> Thus, statistics suggest that term limits are not necessary to restore our rep-

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<sup>109</sup> See H.R. REP. NO. 104-67, 104th Cong., 1st Sess. (1995). Many members of Congress who bring sound judgment developed over their years of experience, will be disqualified. *Id.* A completely newly elected Congress will be unable to respond to the increasingly demanding tasks that face elected officials today. *Id.*

<sup>110</sup> See H.R. REP. NO. 104-67, 104th Cong., 1st Sess. (1995) (statement of the Hon. Henry J. Hyde). The future of this nation depends on the quality of the people leading it. *Id.* To maintain this great quality, the nation needs “individuals with the self-confidence, the experience, the wisdom and the judgment to be able to negotiate issues of war and peace.” *Id.*

<sup>111</sup> *Limits of Term Limits*, WASH. POST, Sept. 26, 1994, at A22. The existence itself, of the term limits movement may be a useful barometer of the discontent that exists in the country. *Id.* But, advocates should be under no illusions because they are unlikely to be better off after they vote. *Id.*

<sup>112</sup> John Ashcroft, *Public Wants Term Limits*, USA TODAY, Apr. 23, 1996, at 10. Even though people may complain about the corruption that occurs on Capitol Hill they still have enough confidence in their individual leaders to continue to support them and vote for them time after time. *Id.*

<sup>113</sup> See *id.*

<sup>114</sup> See *False Hype*, *supra* note 21, at 14. Representative Bill Richardson, a Democrat for New Mexico stated, “[W]e already have term limits; they’re called elections.” See *CBS Evening News* (CBS television broadcast, Mar. 28, 1995). See also 142 CONG. REC. S3864-01 (daily ed. Apr. 23, 1996) (statement of Sen. Dodd).

<sup>115</sup> See S. REP. NO. 104-158, 104th Cong., 1st Sess. (1995). Voters have had no trouble electing challengers of incumbents in the last several years. *Id.* In fact, in 1978, 1980 and 1986 a high number of incumbents were defeated by challengers. *Id.* Furthermore, since the election in 1994, one third of those senators elected, are serving in their first terms. *Id.* Similarly, one third of the members of the House are also serving in their first term. *Id.* More specifically, thirty-nine of the one hundred senators currently presiding were elected since 1992 and fifty-four senators have been elected after 1986. See Siegel, *supra* note 81, at 1. To date, more than half of the

representative democracy or to solve the problems of political incumbency.<sup>116</sup>

### V. *The Complexities of Passing Term Limit Legislation*

The public outrage that followed the *U.S. Term Limits*<sup>117</sup> decision ignited the fire of enthusiasm by Republicans who promised the passage of a term limit amendment.<sup>118</sup> Accordingly, many Republicans devoted their time and efforts to passing a term limit amendment<sup>119</sup> to the Constitution.<sup>120</sup> The majority of Democrats,

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Representatives in the House began their service after January 1993. See 143 CONG. REC. H420-02 (1st Sess. 105th Cong.).

<sup>116</sup> See 143 CONG. REC. H420-02 (1st Sess. 105th Cong.).

<sup>117</sup> See *U.S. Term Limits*, 514 U.S. 779, 115 S. Ct. 1842 (1995).

<sup>118</sup> See *id.* The holding indicates that neither the States nor Congress can add textual qualifications for political candidates not already listed in Article I. *Id.* The only way such changes can be made to the Constitution's text is through an Amendment to the constitution. *Id.* See also *Congressional Term Limits*, *supra* note 30, at 29. The majority of the Supreme Court has held that states cannot add requirements to the specific qualifications listed in the Constitution even though many states have added all sorts of qualifications for candidates to get on the ballot for several years. *Id.*

<sup>119</sup> See 142 CONG. REC. S3717-03 (daily ed. Apr. 19, 1996) Some key Republican Senators who have been very influential in the campaign to pass a term limit Amendment include: Sen. Thompson, Sen. Ashcroft, Sen. Coverdell. See also NICKLES, *supra* note 12, at 3. See generally, S. 3797, 104th Cong., 2d Sess. Sec. 2, 3 (1996); S. 3769, 104th Cong., 2d Sess. (1996); S. 3772, 104th Cong., 2d Sess. (1996); S. 4083, 104th Cong., 2d Sess. (1996); S. 3826, 104th Cong., 2d Sess. (1996); S. 3880, 104th Cong., 2d Sess. (1996); S.3717, 104th Cong., 2d Sess. (1996); S.3727, 104th Cong., 2d Sess. (1996); S.J. Res. 12, 103rd Cong., 1st Sess. (1993); H.R.J. Res. 21 (1991); S.J. Res. 18, 103rd Cong., 1st Sess. (1993); H.R.J. Res. 21, 104th Cong., 1st Sess. (1993); H.R.J. Res. 14, 104th Cong., 1st Sess. (1995); H.R.J. Res. 2, 104th Cong., 1st Sess. (1995); H.R.J. Res. 3, 104th Cong., 1st Sess. (1995); H.R.J. Res. 5, 104th Cong., 1st Sess. (1995); H.R.J. Res. 8, 104th Cong., 1st Sess. (1995); H.R.J. Res. 12, 104th Cong., 1st Sess. (1995); H.R.J. Res. 24, 104th Cong., 1st Sess. (1995); H.R.J. Res. 25, 104th Cong., 1st Sess. (1995); H.R.J. Res. 29, 104th Cong., 1st Sess. (1995); H.R.J. Res. 34, 104th Cong., 1st Sess. (1995); H.R.J. Res. 38, 104th Cong., 1st Sess. (1995); H.R.J. Res. 39, 104th Cong., 1st Sess. (1995); H.R.J. Res. 44, 104th Cong., 1st Sess. (1995); H.R.J. Res. 52, 104th Cong., 1st Sess. (1995); S.J. Res. 19, 104th Cong., 1st Sess. (1995); S.J. Res. 21, 104th Cong., 1st Sess. (1995); S.J. Res. 23, 104th Cong., 1st Sess. (1995); S. 272, 104th Cong., 1st Sess. (1995); s. 271, 104th Cong., 1st Sess. (1995); H.R.J. Res. 65, 104th Cong., 1st Sess. (1995); H.R.J. Res. 66, 104th Cong., 1st Sess. (1995); H.R. 850, 104th Cong. 1st Sess. (1995); H.R.J. Res. 68, 104th Cong., 1st Sess. (1995); H.R. 1104, 104th Cong., 1st Sess. (1995); H.R.J. Res. 73, 104th Cong., 1st Sess. (1995); H.R.J. Res. 75, 104th Cong., 1st Sess. (1995); H.R.J. Res. 76, 104th Cong., 1st Sess. (1995); H.R.J. Res. 77, 104th Cong., 1st Sess. (1995); H.R.J. Res. 116, 104th Cong., 1st Sess. (1995); H.R.J. Res. 82, 104th Cong., 1st Sess. (1995); S. 683, 104th Cong., 1st Sess. (1995); H.R.J. Res. 91, 104th Cong., 1st Sess. (1995); H.R.J. Res. 92, 104th Cong., 1st Sess. (1995); S.J. Res. 36, 104th Cong., 1st Sess. (1995); H.R.J. Res. 195, 104th Cong., 1st Sess., H.R.J. Res. 203, 104th Cong., 1st Sess. (1995); H.R. 2115, 104th Cong., 1st Sess.

however, remain unswayed by public sentiment<sup>121</sup> and consistently vote to defeat all term limit proposals.<sup>122</sup>

Despite historical opposition from the Democratic party, proponents have consistently drafted term limit amendments.<sup>123</sup> Consequently, the increased number of bills has led to a rapid increase in the number of hearings, committee meetings and proposed Amendments to impose term limits on members of Congress.<sup>124</sup> For example, in 1995, the House Subcommittee on the Constitu-

(1995); S. 1073, 104th Cong., 1st Sess. (1995); H.R. 2456, 104th Cong., 1st Sess. (1995); S.J. Res. 161, 104th Cong., 1st Sess. (1995); H.R. 3423, 104th Cong., 2d Sess. (1996); S.J. Res. 55, 104th Cong., 2d Sess. (1996).

<sup>120</sup> See *Political Posturing*, *supra* note 7. Republican Representative Bill McCollum of Florida stated that, popular support, "maybe reason enough to enact" term limits. *Id.*

<sup>121</sup> See *Political Posturing*, *supra* note 7. Democrats have refused to be simply a "conveyor belt for public opinion, whether it is based on wisdom or on folly." *Id.*

<sup>122</sup> See FINAL VOTE OF TERM LIMITS, GOV'T PRESS RELEASE, Mar 29, 1995 (statement of John Boehner) [hereinafter BOEHNER]. In a House vote on a term limit proposal 82% of Republicans voted to amend the Constitution and limit terms of Congress. *Id.* Alternatively, 82% of Democrats opposed the term limit proposal and thus ensured the defeat of the amendment. *Id.* In addition, the term limit movement has been impacted by the failure of the numerous term limit bills proposed to pass through Congress over the years. See *False Hype*, *supra*, note 21, at 14. There have been about 150 amendments proposed to set Congressional term limits in this 104th Congress. *Id.* The fact that congressional supporters of term limits have repeatedly only been able to bring about a mere handful of floor votes, is a clear indication of the remote possibility of a Congressional Term Limit Amendment being enacted. *Id.*

<sup>123</sup> See generally H.R.J. Res. 21, 102d Cong., 1st Sess. (1991-92) (Rep. McCollum proposed an amendment to the Constitution of the United States which provides a 4-year term for Representatives and limits the number of terms Senators and Representatives may serve); S.J. Res. 12, 103d Cong., 2nd Sess. (1993-94) (Sen. DeConcini proposed to amend the Constitution and limit congressional terms); S.J. Res. 18, 103d Cong., 2nd Sess. (1993-94) (Sen. Coats proposed to amend the Constitution of the United States limiting the terms of office for Members of Congress); H.R.J. Res. 21, 103d Cong., 2d Sess. (1993-94) (Rep. Dornan proposed an amendment to the Constitution of the United States limiting the number of consecutive terms members of the Senate and House may serve).

<sup>124</sup> See H.R. REP. NO. 104-67, 104th Cong., 1st Sess. (1995). The subcommittee heard testimony from the following witnesses: Rep. Tillie Fowler, Rep. Bill McCollum, Rep. Nathan Deal, Rep. Douglas "Pete" Peterson, Rep. Donald Payne, Rep. Ray Thornton, Sen. Fred Thompson, Sen. Mitchell McConnell, former U.S. Senator Dennis DeConcini. Charles Kesler, Director of the Henry Salvatori Center, Claremont McKenna College, John G. Kester, Williams and Connolly, Thomas E. Mann, The Brookings Institutions, the Honorable Thomas Fetzer, Mayor of Raleigh, North Carolina, Cleta Deatherage Mitchell, General Counsel, Term Limits Legal Institute, Fred Wertheimer, President, Common Cause, Becky Cain, League of Woman Voters. *Id.* Additional testimony was received from Rep. Frank A. LoBiondo. *Id.*

tion held a one day hearing on the issue of term limits.<sup>125</sup> At the same time, a joint resolution proposing a constitutional amendment to limit congressional terms was reviewed by the House Committee on the Judiciary as well as the Congressional Budget Office.<sup>126</sup>

These congressional hearings brought about the first floor votes by both chambers on the issue of term limits since 1947.<sup>127</sup> On March 29, 1995, however, the House voted and rejected four different constitutional amendments imposing term limits.<sup>128</sup> More specifically, a leading proposal, House Joint Resolution 73,<sup>129</sup> was defeated by a vote of 227 -204.<sup>130</sup>

Thereafter, Senator Thompson's Joint Resolution 21 was presented on the Senate floor.<sup>131</sup> Senate Joint Resolution 21 would have amended the Constitution to limit congressional members to two terms in the Senate and six terms in the House.<sup>132</sup> This Repub-

<sup>125</sup> See *id.* During the 103d Congress, the Subcommittee on Civil and Constitutional Rights held two hearings on term limits on November 18, 1993 and June 29, 1994. *Id.*

<sup>126</sup> See H.J. Res. 2, 104th Cong., 1st Sess. (1995). The amendment would limit Senators to two consecutive terms and Representatives to six consecutive terms. *Id.* To become effective, two-thirds of the members of both Houses would have to vote to approve the resolution, and three-fourths of the states would have to ratify the proposed amendment within seven years. *Id.* See ALSO H.R. Rep. No. 104-67, 104th Cong., 1st Sess. (1995).

<sup>127</sup> See NICKLES, *supra* note 12. See *supra* Part I.

<sup>128</sup> See BOEHNER, *supra* note 121. The term limits constitutional amendment had overwhelming support. *Id.* However, it failed to secure the necessary 290 votes for passage. *Id.* See also *CBS Morning News* (CBS television broadcast, Mar. 30, 1995).

<sup>129</sup> H.J. Res. 73. This bill was introduced on March 2, 1995 by Rep. McCollum. The Constitutional Amendment prohibits the election of any person to a full term as a Senator more than twice or to a full term as a Representative more than six times. *Id.* The amendment also bars any person who has been a: (1) Senator for more than three years of a term to which another person was elected from being subsequently elected more than once; and (2) Representative for more than a year from being subsequently elected more than five times. In addition, the amendment excludes election or service occurring before this amendment becomes operative when determining eligibility for election. *Id.*

<sup>130</sup> See BOEHNER, *supra* note 121.

<sup>131</sup> See STATUS PROFILE, S.J. Res. 21, 104th Cong., 1st Sess. (1995). There are currently twenty co-sponsors of the resolution including: Sen. Ashcroft, Sen. Abraham, Sen. Bond, Sen. Brown, Sen. Burns, Sen. Coverdell, Sen. Craig, Sen. Faircloth, Sen. First, Sen. Hutchinson, Sen. Inhofe., Sen. Mack, Sen. Packwood, Sen. Smith, and Sen. Thomas. *Id.*

<sup>132</sup> See S.J. Res. 21. The text of the resolution is as follows:

Section 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a representative more than six times; no person who has been a Senator for more

lican proposal was defeated on April 23, 1996, when the Senate failed to invoke cloture.<sup>133</sup> Republicans blame Democrats for their defeat<sup>134</sup> and argue that the Democratic party does not listen to the American people's demands for term limits.<sup>135</sup>

However, Republicans, especially freshman Republicans,<sup>136</sup> remain confident that there will be future term limit proposals.<sup>137</sup> In fact, some Republicans took comfort in the fact that the Democrats were on record as rejecting term limits and believed that the American people would respond in the 1996 elections.<sup>138</sup> Republicans

than three ears of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Section 3. No election or service occurring before ratification of this article shall be taken into amount when determining eligibility for election under section 1.

*Id.*

<sup>133</sup> See 142 CONG. REC. S4083-01 (daily ed. Apr. 24, 1996) (statement of Sen. Murkowski). Sen. Murkowski was disappointed with the outcome and said, "I hope the majority leader will be able to bring this measure back before the Senate this year so that we can bring this issue to a final vote." *Id.* A cloture is a "legislative rule or procedure whereby unreasonable debate, [like a filibuster], is ended to permit a vote to be taken." BLACK'S LAW DICTIONARY 175 (6th ed. 1990).

<sup>134</sup> See *Congress is the Big Special Interest Group in Opposition to Term Limits*, WASH. TIMES, Feb. 18, 1997, at 14. Most Republicans believe that most Democrats are greedy, entrenched career politicians who do not make a difference in Washington, but instead, "cash in." *Id.*

<sup>135</sup> See *CBS Morning News* (CBS television broadcast, Mar. 30, 1995). Representative Dick Armey (Majority Leader) stated, "I'm not one bit disappointed in the performance of the Republican Party in the House of Representatives on this issue. I am disappointed for the democrats." *Id.* See also BOEHNER, *supra* note 121. Representative Van Hillary (R-TN) stated, the Democratic "party did everything it could to block term limits using the excuse that they are 'anti-democratic'. What can be more democratic than abiding by the will of 80% of their constituents?" *Id.*

<sup>136</sup> See *Political Posturing*, *supra* note 7. Because of House rejection of the amendment to impose term limits on Congress, Republicans have spoken of retribution against opponents. *Id.* This talk is especially prevalent among Freshman Republicans who believe they were "sent to Capitol Hill on a holy mission to purify the place." *Id.*

<sup>137</sup> See *id.*

<sup>138</sup> See 142 CONG. REC. S3862-01 (daily ed. Apr. 23, 1996) (statement of Senator Inhofe). Senator Inhofe was not very optimistic that any action would be taken regarding term limits on April 23, 1996. *Id.* He stated, "I will say this. There is going to

hoped the public would not re-elect incumbent Democrats who had voted against congressional term limits.<sup>139</sup> However, the 1996 elections proved that the Republicans were misguided in their beliefs.<sup>140</sup>

Despite the faith of Republicans, that a term limit amendment will eventually be passed, Democrats continue to believe that Republicans will never be able to obtain the necessary votes required to pass such an amendment.<sup>141</sup> In fact, Democrats doubt the depth of Republican support, since they know that the passage of such an amendment would bring an abrupt halt to many successful political careers, of both Republicans and Democrats.<sup>142</sup>

After the 1996 Elections, Republicans made one last attempt to raise the issue of term limits. Speaker of the House Newt Gingrich fulfilled a promise to constituents that term limits would be the first legislative business of the year.<sup>143</sup> On February 12, 1997, the House considered various separate proposals.<sup>144</sup> The various

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be a record that will be established so that people who are running for office will know that the public will know how they stand on this very contentious issue." *Id.*

<sup>139</sup> *See id.*

<sup>140</sup> *See* Adam Clymer, *Measure on Term Limits Heads for House Vote*, N.Y. TIMES, Feb. 5, 1997, at 13 [hereinafter Clymer]. Republicans lost nine seats in the 1996 election. *Id.* This decrease in Republican representation in the House leaves them further away from accomplishing their goal, a term limit amendment. *Id.*

<sup>141</sup> *See Political Posturing*, *supra* note 7. Democrats describe the abundance of term limit supporters as only the latest folks who mislead themselves about their ability to get voters to cast ballots on a single issue, no matter how strongly supported in a poll. *Id.* Representative Henry Hyde, a Republican from Illinois, believes it is useless for Republicans to continue trying to pass a term limit amendment. *See* Clymer, *supra* note 139, at 13.

<sup>142</sup> *See CBS Morning News* (CBS television broadcast, Mar. 30, 1995). Democrats proclaim that those members of Congress who allege they support the imposition of term limits "are speaking with forked tongues." *Id.* Democrats also charge that Republican supporters of term limits are breathing a sigh of relief knowing that the defeat of H.J. Res. 73 means that their jobs are a little more secure. *Id.*

<sup>143</sup> *See* Clymer, *supra* note 139, at 13. In March 1995, Speaker Gingrich pledged to make first on the agenda of this year after the proposal fell short by sixty-one votes of the two-thirds' majority required. *Id.* Traditional matters will have to take precedence but there should be a hearing on a term limits amendment as early as February. *See Whether Term Limits? Issue Should Come Up Early in Congress*, COLUMBUS DISPATCH, Dec. 16, 1996, at 6a. The first substantive vote that will take place of the 105th Congress will be on term limits. *Id.* Representative Klug and his colleagues that support term limits intend to resume their uphill battle to pass a term limit amendment when the 105th Congress convenes. *See* Siegel, *supra*, note 81, at 1.

<sup>144</sup> *See* David Hess Knight-Ridder, *House Rejects Term Limits on Members in Series of Votes*, L.A. DAILY NEWS, Feb. 13, 1997, at N12 [hereinafter Knight-Ridder].

proposals would have limited both Senators and Representatives to either twelve or six years in office.<sup>145</sup> Ultimately, however, the House defeated each of the ten term limit amendments.<sup>146</sup>

Opponents believe that these failures might be the official end to the term limit movement.<sup>147</sup> However, the truth of this belief has yet to be seen because public support for term limits remains strong.<sup>148</sup> In fact, several term limit amendment proposals are pending in Congress.<sup>149</sup> Therefore, the debate over congressional term limits will continue.

## VI. Conclusion

Throughout history, the American people have complained

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<sup>145</sup> See 143 CONG. REC. H417-01. Representative McCollum of Florida introduced House Joint Resolution 2 which would have limited both senators and representatives to twelve years in office. *Id.* Senator Allard introduced Senate Joint Resolution 16 which would limit Representatives to six years of service and Senators to 12 years. See 143 CONG. REC. S1379-01.

<sup>146</sup> See Douglas, *supra* note 90, at A21. For the second straight session, the House of Representatives was unable to secure enough votes for a two thirds majority to pass a constitutional amendment implementing term limits. *Id.* House members debated during most of the day and voted down ten separate proposals. *Id.* The proposal that received the most support would have set twelve year limits for both Senators and Representatives. See Knight-Ridder, *supra* note 143, at N12. However, even this proposal fell sixty-nine votes short of the two-thirds majority. *Id.*

<sup>147</sup> See *supra* note 118 and accompanying text.

<sup>148</sup> See Paul Jacob, *Forcing Term Limits*, WASH. TIMES, Feb. 12, 1997, at 18. Republicans remain confident because they have faith in the resiliency of the voters and the national movement to implement term limits. *Id.*

<sup>149</sup> See *supra* note 126 and accompanying text. For instance, on May 15, 1996, Senate Joint Resolution 55 was introduced to the Senate Judiciary Committee, by Senator Pell. See S.J. Res. 55, 104th Cong., 2nd Sess. 1996. A joint resolution proposing an amendment to the Constitution relative to the commencement of the terms of office of the President, Vice-President and members of Congress. In addition, the Term Limit Act of 1996 (House Resolution 3423) is still pending on the House calendar. See H.R. 3423, 104th Cong., 2nd Sess. (1996). Representative Campbell introduced the bill on May 9, 1996. *Id.* The bill provides that an individual may not serve more than two terms as a member of any independent regulatory commission, and authorizes an individual to continue to serve as a member of an independent regulatory commission for not more than one year following the expiration of the term of the individual. *Id.* The twenty co-sponsors include: Rep. McIntosh, Rep. Clinger, Rep. Pakard, Rep. Bono, Rep. Upton, Rep. Horn, Rep. Scarborough, Rep. Largent, Rep. Castle, Rep. Zeff, Rep. Fox, Rep. Boehlert, Rep. Calvert, Rep. Watts, Rep. Bereuter, Rep. Canady, Rep. Inglis, Rep. Myrick, Rep. Leach, and Rep. Souder. *Id.* Congress still faces a backlog of one hundred constitutional amendments. See Douglas, *supra* note 90, at A21.



about corruption in the political system.<sup>150</sup> In recent years, these complaints have culminated in tremendous grassroots efforts to end this corruption through the adoption of congressional term limits. The idea behind congressional term limits is that politicians will no longer be interested in self-gain and re-election.<sup>151</sup> Instead they will be focused only on serving their fellow Americans.

It is apparent, however, that putting an end to incumbency will not end political corruption. The environment of Capitol Hill is such that bureaucracy and corruption flourish because of the power inherent in federal office. Term limits may prohibit legislators from making political deals to benefit themselves, but these limits will only lead to the development of a new bureaucracy where corruption will also flourish. Therefore, advocates are misguided in their belief that congressional term limits will cure all congressional problems.

While term limit supporters continue to claim that term limits are the answer to solving many of the problems that plague legislatures at the federal and state level, the reality of a term limit amendment does not appear conceivable in the near future, if ever.<sup>152</sup> Politicians will never vote themselves out of office. Those that have voted in support of term limit proposals have only voted yes because they knew there was not enough support to ever jeopardize their political futures. With this in mind, the recent debate over term limits appears to be another ploy in the political agenda to appease disgruntled Americans.

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<sup>150</sup> See *supra* Part II.

<sup>151</sup> See *supra* Part IV.

<sup>152</sup> See *supra* Part V.