

No Uncertain Terms

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In Illinois, What Now for Term Limits?

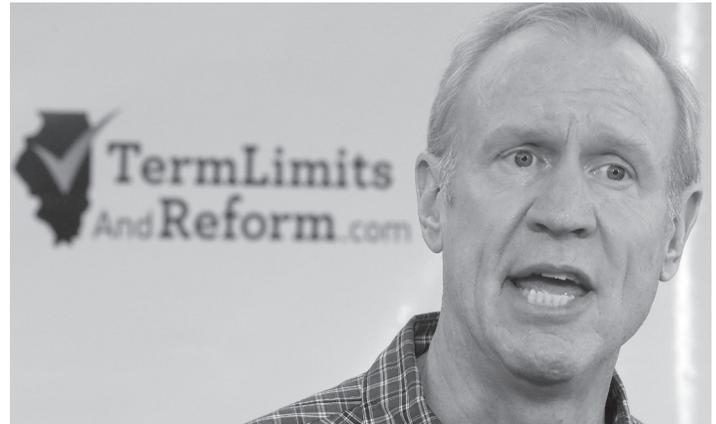
Last November, venture capitalist and political newcomer Bruce Rauner wrested Illinois's governorship from an incumbent whose support for state legislative term limits had become ritualistic and unconvincing.

A major theme of Rauner's campaign was the necessity of legislative term limits, a reform being advanced through a simultaneous petition drive to send a term limits amendment to the ballot. That amendment would have imposed a maximum of eight years of legislative service, no matter how apportioned between the two chambers; and would also have instituted other major reforms.

Petitioners gathered nearly 600,000 signatures, many more than needed to post the question. But incumbents sued to stop voters from voting on it. The courts, including a supine state supreme court, cooperated with that purpose.

So now what?

In his early-February state of the state address, Governor Rauner indicated that term limits are still on his agenda,



Governor Rauner advocates term limits and other reform.

declaring that they are the “best voter empowerment tool.... Term limits overcome the power of incumbency and help bring fresh thinking to government. Let's finally give the people a chance to enact term limits by putting that constitutional amendment on the 2016 ballot, and let the voters decide.”

(Continued on Page 3)

A Tale of Two Speakers

see p. 7



The Article V Path to Congressional Term Limits

In many states, lawmakers are urging legislatures to call an Article V convention to amend the U.S. Constitution to curb federal excesses, including by term-limiting members of the U.S. Congress. The approach is championed and led by the Virginia-based Citizens for Self-Governance, and endorsed by U.S. Term Limits as one possible means of achieving congressional term limits.

In 2014, the legislatures of Georgia, Alaska and Florida were the first to pass CSG's Convention of States application calling for a convention. Seventeen other states are considering similar legislation. In order to call a convention, 34 states must apply.

Virginia's Article V resolution HJR 497 (1.usa.gov/1KR4LpC), filed this January, calls for a convention “limited to proposing amendments...that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and members of Congress....” Sup-

porters include House Speaker Bill Howell and the Republican caucus.

Typically, successful constitutional amendments originate in Congress, upon winning the consent of two thirds of the members of each house. But the alternative of originating with the states, so as to bypass a potentially uncooperative national body, is not an afterthought in Article V. The two options are presented coordinately: Congress shall propose amendments “whenever two thirds of both Houses shall deem it necessary...or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments....”

In 1787, Virginia's own George Mason, fearing the possibility of federal corruption impervious to self-reform, had argued at the Constitutional Convention for a provision enabling states to call an amendment convention directly. According to Madison's notes of the proceedings, Mason

(Continued on Page 3)



President's Corner

BY PHILIP BLUMEL

The chief executives of certain states support legislative term limits (see Illinois, for example, and page 1). Do we have any realistic hope that the chief executive of the United States will not only approve but actively promote legislative — congressional — term limits any time soon? The answer seems to be Yes.

I don't mean the present administration, obviously. But we've got an election coming up in 2016, and, thanks to presidential term limits, Obama cannot run for a third term. Have any of the potential candidates expressed support for term limits? Well, let's look:

- Mike Huckabee. "We need a whole new crop. One of the reasons, by the way, I think term limits is a very important idea, long overdue. Nobody should go up there and let Washington become the roach motel, where they go in but they never come out."
- Rand Paul. "It is time to put an end to the profession of 'career politician,' and impose limits on how many times a member is allowed to seek re-election."
- Chris Christie. "People decided they didn't want a king. They wanted someone to come and serve as the executive for a period of time — no more than 8 consecutive years. I don't understand why we can't have the same kind of thing in the legislature, in Congress, as well."
- Ted Cruz. "I have pledged to help lead the fight to get that constitutional amendment passed—no more than three terms in the House and two terms in the Senate.... Term limits are critical to getting career politicians out of DC."
- Marco Rubio: "We have term limits in Florida, and I saw the benefit of having our legislators serve for a limited time and then return home to live under the laws they crafted. Term limits are long overdue in Washington."

Cruz and Rubio are among the dozen co-sponsors in the U.S. Senate of a resolution proposing a constitutional amendment to limit U.S. Representatives to three two-year terms and U.S. Senators to two six-year terms. (Visit ustermlimitsamendment.org to see whether your representatives have signed our pledge to "cosponsor and vote for the U.S. Term Limits Amendment of three (3) House terms and two (2) Senate terms and no longer limit.")

What about it, prospective Democratic candidates? Don't let the Republicans hog all the glory on this issue! The appeal of term limits is bipartisan.

Visit Phil Blumel's blog at pblumel.blogspot.com.
Catch us on Facebook (on [fb.me/U0blkG](https://www.facebook.com/U0blkG)).

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"It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the Government from falling into error."

-- U.S. Supreme Court in *American Communications Association v. Douds*

In Illinois, Now What (Cont'd from page 1)

At least three separate bills have been offered in the new session of the Illinois legislature to make that possible.

One bill, offered by Representative Jack Franks, would ask voters only about the possibility of term-limiting leadership positions in the legislature. But it would not let Illinoisans impose even that much of a curb on legislative power, for it would be a mere “advisory” question. If voters passed it, leadership posts would not in fact be subjected to term limits. But lawmakers could say that they had let get voters on record about the issue.

Better is Representative Ron Sandack’s amendment (bit.ly/1aYeieu), which would prohibit a person “from holding the office of State Senator or State Representative, or a combination of those offices, for more than 10 years.” The amendment would be effective “upon being declared adopted,” but it’s unclear whether it would count tenure served prior to passage. The ambiguity would render the

amendment susceptible to judicial challenge if voters approved it as worded.

Representative David McSweeney’s alternative (bit.ly/1AaXRkC) provides “that no person may serve more than eight years in the General Assembly. No person may be elected or appointed as Senator or Representative if, upon completion of the term of office, that person will have been a member of the General Assembly for more than eight years.” The amendment stipulates that time served in the legislature “before the session beginning in January 2017 shall not count toward the eight-year service limitation.”

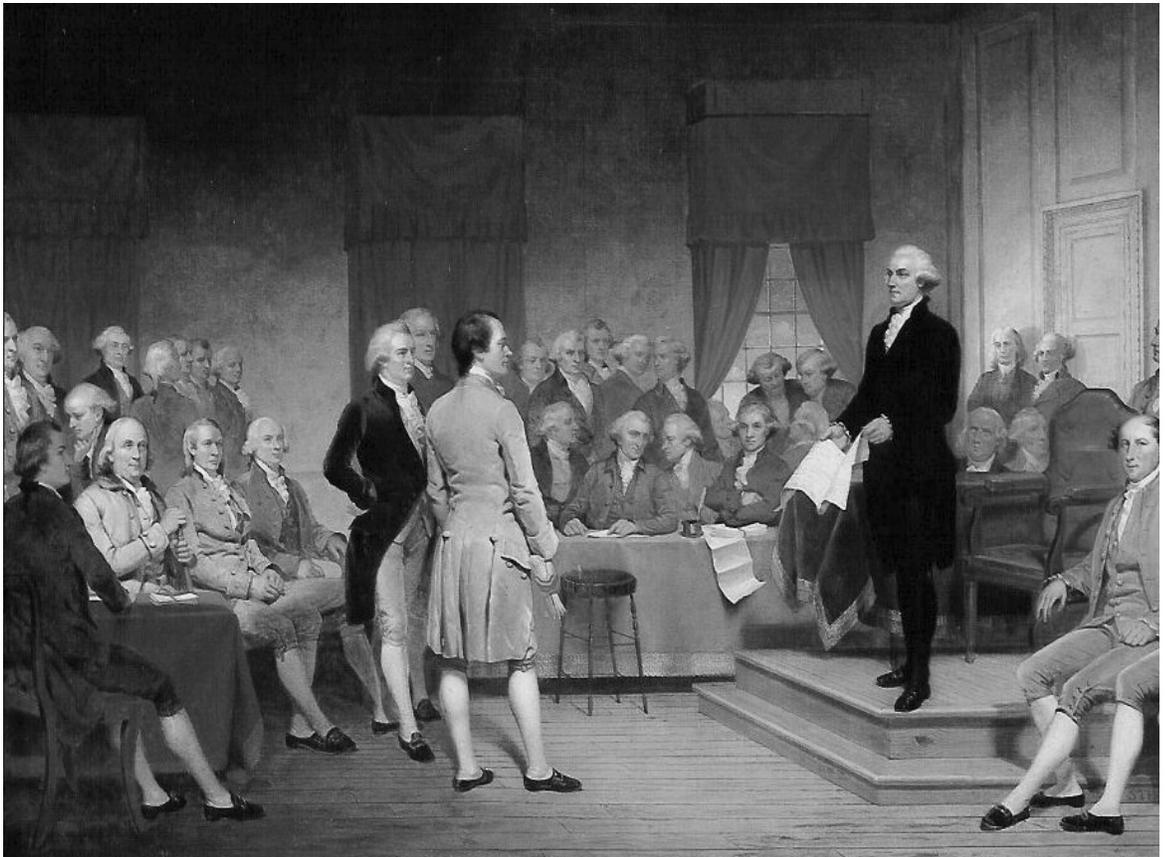
To “give the people a chance to enact term limits,” legislators need only send the McSweeney question to ballot. That’s a lot to hope for, granted. But the chances that incumbents will accede are greater if the pressure exerted by both the governor and the public is unrelenting.

Article V (Cont'd from page 1)

replied to skeptics of the need for such a provision by arguing that it would be “improper to require the consent of the National Legislature, because they may abuse their power, and refuse their assent on that very account.” The drafters then accepted the addition unanimously.

Once an Article V convention drafts an amendment or amendments, these would have to be ratified by three fourths of the states, just as amendments originating in Congress must be. Fears therefore

of a “runaway convention” that would outdo the present runaway Congress with respect to fiscal irresponsibility and tyrannical assault on our liberties have little warrant. The work of the convention could not be enacted without that wide ratification unless its program were implemented by revolutionary means that, if possible, would be possible



without such a convention.

A congressional term limits amendment would likely be such a convention’s most popular and most easily ratified product.

Term Limits

CALIFORNIA



Los Angeles, CA. On March 3, voters passed two allied ballot measures to change the city's primary and election dates to even-numbered years (beginning in 2020) to coincide with state and federal elections. One provision temporarily lengthens the terms of city council and school board members elected in 2015 and 2017 from four years to five and a half years. Officials who benefit from that longer tenure will receive proportionately higher pension benefits when they leave office (an estimated \$5,650 more for council members serving the extra 17 months).

MAINE



State Representative John Martin, currently on his 24th term in office (Maine's term limits are non-consecutive, not lifetime), sponsored a bill this March asking voters to repeal legislative term limits. Former lawmaker Rick Bennett is not pleased. "I find it very offensive personally that there are efforts afoot from the legislature to change this citizen initiated law," he says. "I expect that it will be rejected by the legislature as it has in years past. And if it isn't, then certainly the voters will reject it once again in a people's veto." The USTL Facebook page (on.fb.me/U0blkG) invites Maine visitors to "Contact your State Rep and State Senator today to tell them: Stop LD 182!"

MICHIGAN



"Term limit turnover: Michigan losing 248 years of legislative experience this year," editorializes the Michigan Live headline. Despite the effort here to prejudice the headline-skimming crowd, we give reporter Jonathan Oosting credit for quoting term limits advocate Scott Tillman on the question of "lost experience": "The people of Michigan decided in 1992 that we wanted citizen politicians, not career politicians. That means we lose people, from time to time, who are experts in being politicians, but we gain people who are out in the state working jobs and living under laws that those other politicians created."

MONTANA



Helena lawmakers have introduced several bills this session assailing term limits. State senators have tabled SB 383 to repeal term limits, but SB 391 to repeal them has been referred to committee and is still a live threat as we go to press. In the house, HB 601 to allow lawmakers to serve up to 16 years in one chamber (as opposed to the present term limit of eight years in the house and eight in the senate) was heard in committee on March 20.

NEBRASKA



Nebraska State Senator Paul Schumacher wants voters to let senators in the unicameral legislature serve two consecutive six-year terms instead of two consecutive four-year terms. In 2012, 65% of Nebraska voters rejected a measure to lengthen maximum tenure from two terms to three terms. Schumacher is in effect repeating that attempt; his bill seeks the same 50% increase sought in 2012. But he clearly hopes that nominally retaining two terms will alchemize the proposal into something more palatable at the ballot box — as if voters will be unable to detect that expanding tenure to twelve years by one method is the same as expanding to twelve by the other method.

NEW YORK



State Senator George Amedore has introduced a bill to limit New York legislators to six two-year terms. "It's time that we institute reforms and changes that bring about, I think, a quality in our Legislature. We see constantly more investigations, more indictments — and some of these legislators who have been here for a very long time have, frankly, just been doing the status quo." An equivalent assembly bill is sponsored by Assemblyman Mark Johns.

With Joe Griffo, Amedore has also advanced a bill to require eight-year term limits on committee chairs and leadership positions, in both chambers — a limit currently in effect in the senate but not in the assembly. The *Times Union* notes that 15 term-limits bills were introduced in the last session.

in the News

“Term-limit legislation has passed the Republican-led Senate in past years, but has failed to go anywhere in the Democratic Assembly.”

Erie County, NY. Meanwhile, five Erie County legislators are teaming up to propose six two-year terms for lawmakers and three four-year terms for county officials. One of the lawmakers, Kevin Hardwick, cited the doings in Albany as illustrating the need for county-level limits as well. “[T]he Sheldon Silver scandal in Albany is the most recent reminder that we do not live in a perfect state, let alone a perfect world. We need to protect ourselves from the excessive influence of career politicians. If the legislature passes this resolution, I am confident voters will ratify this important reform in November.”

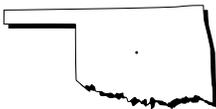


OHIO

A lobbyist and former chief of staff for the Ohio house, Fred Mills, is on a commission — the members of which were hand-picked by legislators — pondering measures to weaken state legislative term limits by lengthening them from eight years to 12 years. He says term limits “threw out 800 years of experience in ’92. I think we have inherent term limits — they’re called elections.” (In fact...just to clear up any confusion here...term limits are caps on tenure. A limitation of tenure is not an election.)

Chillicothe Gazette suggests that the ability of term-limited Ohio lawmakers to fashion a redistricting plan that both major parties can accept “demonstrated just what it would take to get some things done in Congress for a change... What’s remarkable about the plan — aside from the fact that it drew near-unanimous support — is that it was assembled by a small group, including two members — Republican House Speaker Pro Tem Matt Huffman, R-Lima, and Democratic Rep. Vernon Sykes — who were facing term limits. They had no votes to lose.... They weren’t coming back, so they could do what they felt was right.”

The USTL Facebook page (on.fb.me/U0blkG) invites Ohio visitors to “Tell your legislators: ‘LISTEN TO THE VOTERS: EIGHT IS ENOUGH!’”



OKLAHOMA

Oklahoma Representative Paul Wesselhoft wants to lengthen term limits from 12 to 16 years — proving yet again that any term limit, no matter how slack, is just way too short for career-politician incumbents. According to *The McCarville Report*, Wesselhoft’s goal in proposing the ballot measure is to “give Oklahomans a chance to cultivate more experience in their state legislators.”



OREGON

Oregon Governor Kitzhaber was forced to resign within weeks of winning a fourth term because his fiancée used her relationship with the governor to liberally line her pockets, apparently with his knowledge. The scandal helps make the case for non-consecutive (lifetime) term limits. For if Kitzhaber had been gone for good after his first two terms as governor, Oregonians would have been spared the tawdry dénouement of his stewardship. Instead, after a constitutionally required hiatus, he was able to run for a third and then a fourth term.



UNITED STATES

A few Democrats have argued lately for term limits on leadership positions, but their protests against the status quo have fallen on deaf ears. Here’s how Representative Emanuel Cleaver sums up the contrarians in his caucus: “At a time when our numbers are anemic, I’m not able to understand why we would create controversy inside the caucus. I think it’s terrible that we’ve created this microwave society where nobody wants to wait on anything. It’s like this kid who says, ‘I just turned 18, where’s my car?’”

Oy, such a rush to curb the excesses of entrenched power, these young people! There are probably several different logical fallacies here, but the main one seems to be the what-the-heck-are-you-even-talking-about fallacy.

A Tale of Two Speakers

Sheldon Silver, who had been speaker of the New York Assembly since 1994 and a member of that body since 1976, was arrested this January for accepting millions in bribes and kickbacks in exchange for political favors. He resigned the speakership several days later.

The members had just elected him to an eleventh term as speaker despite knowing about the official investigation into his dealings.

Manhattan U.S. Attorney Preet Bharara said that “the show-me-the-money culture of Albany has been perpetuated and promoted at the very top of the political food chain” and hinted that more corruption cases were in the works. “These charges go to the very core of what ails Albany — a lack of transparency, lack of accountability and a lack of principle joined with an overabundance of greed, cronyism and self-dealing.”

Silver’s decades of entrenchment in a job enabling him to wield great power likely fostered a sense of immunity to the risk of ever being held accountable for his extortionate conduct.

“If the recent news regarding Speaker Silver has demonstrated anything,” Assemblyman Steve Hawley said, “it is that we need ethics reforms in Albany now more than ever. It goes against the very function of our government to have a single person hold as much power as Sheldon Silver. Silver has omnipotent control over which bills come before the Assembly for a vote and how taxpayer funds are used. The length of time Silver has been in office, more than 20 years, has allowed him to accumulate significant wealth and power. Now we have discovered that much of his wealth and power allegedly was either illegally obtained or used to promote his own private interests.”

“The charges against Silver,” suggests USTL Executive Director Nick Tomboulides in a commentary at termlimits.org (bit.ly/1MDDnsy), “are nearly a mirror image of those that ensnared ex-State Senate Majority Leader Joe Bruno, a Republican whose 32-year career came to an abrupt end when he was jailed for corruption in 2009.... Silver and Bruno are a case study for term limits because, like many lawmakers, they didn’t arrive in Albany with a penchant for corruption. Only after spending decades inside the political bubble — building seniority and forming bonds with special interests — did either man begin sampling the forbidden fruits of dirty dealing.”

Unconvinced by such arguments is Silver’s successor in the speakership, Carl Heastie, who quickly threw cold water on calls for leadership term limits.

“I’m not a big fan of term limits,” Heastie hurried to say. “I think voters and the people and the members should decide who their leaders are, but it’s something that we will discuss, as I promised.”

In Massachusetts

In Massachusetts, another legislative leader, Robert DeLeo, did more than agree to talk about term limits when he assumed the post of speaker in 2009. In the wake of federal convictions for three house speakers in a row, he made a firm show of support for an eight-year term limit on his job; he was a champion, pushing through the reform himself.

Now, though, Speaker DeLeo’s thinking has “evolved.” Like many another officeholder who “supports” term limits, one day he realized that a term limit on himself is inconvenient. So he asked members to dispense with the rule, and they have obliged him.

“Term limits restrict the amount of power than can be amassed by a leader and ensure predictable, stable, transitions of power,” opined the watchdog group Common Cause Massachusetts. “Without a term limit, leaders must either be deposed, which can be very disruptive to a legislative body, or happen when a legislative leader is indicted or under an ethical cloud, or, very rarely, when a leader loses interest and decides to move on, typically after securing a post for a successor.”

“DeLeo’s conversion illustrates how power corrupts,” added the *MetroWest Daily News*. “Leaders used to wielding power develop an appetite for more, and an aversion to giving up any. They confuse their fate with those of the institutions they lead.”



Silver.



DeLeo.

WHAT WE'RE SAYING

State of Corruption: Massachusetts

“DeLeo and his defenders tried to make the case that a [Massachusetts] House with a lame-duck speaker would be weakened in its negotiations with the governor and the Senate.

“But the term limits rule is about the speaker’s power, not the power of the House. Over the last two years, both Senate President Therese Murray and Gov. Deval Patrick were, in theory, lame ducks, Murray by term limits and Patrick by choice. Neither seemed particularly hobbled by the knowledge their terms were coming to an end.”

— **“Editorial: Speaker DeLeo’s term limits power play,”**
Metrowest Daily News, January 31, 2015, bit.ly/1FxErGd

“DeLeo is breaking the pledge he made in 2009, when he hailed term limits as essential to the infusion of fresh ideas....

“His reversal reeks of hypocrisy, and that’s the real problem here. It will foster more mistrust of government and its most powerful men. DeLeo might be able to defend his record, but he can’t defend that.”

— **“Speaker DeLeo’s flip-flop on term limits can’t be justified: Editorial,”**
MassLive, January 30, 2015, <http://bit.ly/17hfqrc>



State of Corruption: New York

“One-third of [New York states’s] legislative races in 2014 were uncontested. Elections are supposed to ensure officials are accountable, but this most basic check on power has been eliminated in much of New York thanks to gerrymandering and one-party rule.

“There should also be term limits on top leadership positions and committee chairmanships to further dilute the concentration of power. Silver represents 130,000 people, just like each of the other 149 members of the Assembly. But over two decades as speaker, he amassed power that rivaled the governor, who represents 19 million New Yorkers. This is remarkably undemocratic.”

— **“We can start disinfecting Albany,”** Kieran Michael Lalor, February 1, 2015, *New York Post, bit.ly/17hgAmO*

“I voted against term limits in 1993 and 1996 when the issue was on the ballot in New York City. My reasoning was simple and unoriginal: Like other New Yorkers who unsuccessfully opposed the measure, I argued that voters have a right every two, four or six years to elect or re-elect their representatives. We already have term limits, I said.

“Now, I’m convinced I was wrong, and that we need term limits for New York State office holders, too. The reason? Men are not angels, as the *Federalist Papers* famously observed. Even the best of us can become compromised or corrupted by power over time. And nowhere does that seem truer than in New York, where state government has become an unqualified national embarrassment.

“A second reason is the firm understanding that voters don’t truly get a choice in who appears on the ballots. New York’s moneyed and political interests have mastered the art of incumbency protection.”

— **“The time for term limits has come to state government,”** William F. B. O’Reilly, *Newsday, January 28, 2015, nwsdy.li/1A9adgF*

“Term limits would also strike at a problem more pervasive in Albany than corruption: legislative careerism. The longer they serve, the more many Assembly and Senate members naturally seek to preserve their positions....

“The bottom line is that New York’s propensity for big-government overreach has helped create and sustain what [U.S. Attorney Preet] Bharara has called a ‘cauldron of corruption’ in the state Capitol.

“Federal charges aside, Sheldon Silver undeniably had been the leading champion of New York’s worst tax-and-spend habits.”

— **“Corruption cauldron: To fix Albany — term limits,”** Tim Hoefler, *New York Post, January 27, 2015, bit.ly/1Epuukl*



No Uncertain Terms

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“We already have term limits, I said. Now, I’m convinced I was wrong, and that we need term limits for New York State office holders, too.... State government has become an unqualified embarrassment.”

**— William F. B. O’Reilly, *Newsday*
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