

VICTORY IN NEW ORLEANS

Popular New Orleans Mayor Rejected in Bid to Kill Term Limits

Last month, New Orleans voters reaffirmed their support for term limits by voting down a measure that would have allowed their popular Mayor, Marc Morial, to run for a third term in office. The measure was defeated, 61 percent to 39 percent.

Morial had spearheaded an effort to change the city charter to allow him to break the current two-term limit law and run for a third term

as mayor. But fighting term limits is nothing new for politicians. Attempts to repeal the restrictions in Louisiana go back at least five decades, to a time when the state Constitution prohibited governors from serving consecutive terms.

It wasn't until 1966, when the very popular Governor John McKeithen was in office that Louisiana voters agreed to amend the Constitution to give their chief executive a

second consecutive term. McKeithen then won reelection.

About ten years earlier, New Orleans had been successfully living under term limits on the mayor. Chep Morrison had acquiesced to a two-term cap in the 1954 city charter, most likely because he saw himself leaving the mayor's office for the governor's mansion. According to author Edward Haas,

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New Orleans Mayor Marc Morial Morial tried to kill his city's term limits law in order to retain his office. His effort was defeated decisively.

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PULLING THE STRINGS

Anti-Term Limits Ballot Measure Secretively Funded by CA Politicians

California politicians don't want their fingerprints directly on Proposition 45, the anti-term limits measure we've reported on recently. So legislators have recruited special interest groups to contribute over \$1 million to successfully place Proposition 45 on the March 2002 ballot. This gives the appearance that the measure is coming from "the people," rather than from the self-serving legislators.

Proposition 45 purports to be pro-term limits. The language is worded to sound complimentary toward the term limits concept while seeking to undermine its strength. The measure would effectively lengthen term limits from six and eight years to 10 and 12 years, because incumbents would easily be able to gather the signatures required to get their names onto the ballot. ■



MESSAGE FROM THE EXECUTIVE DIRECTOR

Politician, Disqualify Thyself!

The enemies of democracy just never run out of dirty tricks, do they?

The Idaho Supreme Court is preparing to rule on a lawsuit against Idaho voters, a lawsuit launched by career politicians. The issue: whether term limits violate the “right of suffrage” — i.e., the right to vote — enshrined in our state Constitution.

The latest ploy is an attempt to discredit one of the justices hearing the case, Justice Daniel Eismann.

Because proponents of term limits supported his candidacy for the high court, he is supposedly a known booster of term limits and ought to recuse himself from the proceedings. This notion is trotted out again in an Associated Press story by Mark Warbis, “Court Considers Whether Ballot Access is a Constitutional Right” (Nov. 2).

But Warbis’s account omits a vital detail.

If Justice Eismann must be disqualified because he might possibly be “biased” in favor of term limits — then what about his colleague, Chief Justice Linda Trout? After all, just a couple years ago, Idaho papers widely reported Justice Trout’s opinion that term limits would somehow impair the ability of public prosecutors. So her “bias” against term limits is not even a matter of speculation. It is a reported fact.

Yet, though Trout’s anti-term limits sentiment is on the record, none of the anti-Eismann folk complain about her role in helping determine whether term limits will be allowed to take effect at all here in Idaho.

Hmm....

Probably Eismann does have some opinion about term limits. Probably all the justices do. But those who assert that the mere possession or probable possession of an opin-

ion on the political merits of term limits must skew a justice’s understanding of the legal merits of this suit have got to be consistent here. They can’t have their cake and eat it too. If Eismann must step aside, so must Trout, lest justice in Idaho be exposed as a farce and the courts in Idaho be exposed as mere tools of the ruling elite.

Career politicians like to say that term limits stops citizens from voting for the candidate of their choice. But choice at the ballot box has always been limited to those names that are actually on the ballot — options that have always been subject to legal qualifications. And the track record in states where term limits are now in place is that the options of the voter only increase under term limits. That’s because under term limits there is a lot more electoral competition.

If the career politicians wish to overturn initiatives that they happen not to like, they should propose an appropriate constitutional amendment. Instead of trying to twist the plain meaning of our existing Constitution, they should try to mangle the Constitution fair and square, with the knowledge and approval of the people.

The proposed amendment could read something like this:

“Although the whole purpose of the citizen initiative is to enable Idaho voters to enact laws that represent a conflict of interest for those in power, from now on any duly passed citizen initiative is null and void whenever incumbent officeholders happen not to like it. The citizens shall serve the rulers, and not vice versa.”

That way, at least, the foes of democracy won’t have to try to run to the Idaho Supreme Court to get their dirty work done.

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The Struggle Over Oregon Term Limits

In 1992, Oregon voters approved one of the toughest term limits laws in the nation. State representatives are limited to six years, state senators are limited to eight years, and they can serve a maximum of twelve years combined in both houses. The term limits initiative passed with 70 percent of the vote, the highest vote total for any initiative in Oregon history.

The Oregon political establishment has been trying to get rid of the law ever since. Two years ago, the legislature nearly passed a measure that would have lengthened the limits to twelve years in each house, and would have started the clock anew for long-time legislators. Recognizing that to amend their state constitution they would need voter approval, the politicians backed down.

They began to pursue the same strategy this year, but then opted to try getting the courts do their dirty work for them.

While Oregon has had the initiative process for over 100 years, recently a lower state court reinterpreted a long-standing state constitutional provision to give precedent to invalidating any initiative whose provisions it deems were not “closely related” to each other. Unsurprisingly, the Oregon politicians have seized on this ruling to try to kill term limits.

First, they claim that the term limits initiative contained multiple provisions that were not sufficiently “closely re-

lated” — term limits on the state’s congressional delegation, term limits on statewide officials, and term limits on state legislatures. *The Oregonian*, based in Portland and normally no friend of term limits, editorialized on this point: “If all this doesn’t qualify as ‘closely related,’ it’s hard to imagine what would.”

If any sense of logic prevails, term limits will win in the Oregon Supreme Court.

The politicians’ second argument is that the new judicial interpretation should be applied retroactively to invalidate other initiatives, like the 1992 term limits law, that were passed well before the new interpretation was made.

This summer, a lower court judge bought into this reasoning and struck down the term limits law, which opened the floodgates. Now, every grievance group in the state that

wants to throw out an initiative passed during the last century is filing lawsuits under this ruling, throwing the Oregon political and legal system into chaos. The case was appealed to the Oregon Supreme Court, who heard arguments in early November. A decision is expected by the end of the year.

If any sense of logic prevails, term limits will win in the court. Even the decidedly anti-term limits *Oregonian* opined, “The term limits law should go — but it shouldn’t go this way, on a questionable ruling that may trigger legal challenges to dozens of initiatives dating back much of the last century.” ■

“Victory in New Orleans,” cont. from page 1

Morrison was at the height of his popularity and had statewide ambitions. However, in 1961, after two unsuccessful races for governor, Morrison faced the prospect of being forced out of city hall. Not wanting to give up his own power, he asked voters to change the city charter so he could run again for mayor. A spirited campaign that saw the defection of former Morrison allies with mayoral ambitions of their own

ended with the measure being defeated by about 1,500 votes.

Then, in the 1980s, two-term Mayor Dutch Morial (current Mayor Marc Morial’s father) gave it two tries of his own, failing first in a bid to remove all restrictions and then in a proposal for just three terms. His efforts coincided with a renewed interest in term limits building across the country.

In 1991, New Orleans extended its cap from mayors to city council members’ terms. And two years ago, Slidell

voters turned down a proposal to stretch limits on city officials from two to three terms, while the Harahan mayor and police chief have been unsuccessful in a court case testing their city’s two-term limit. Jefferson Parish officials have yet to persuade their Charter Advisory Board to recommend tinkering with Jefferson’s two-term cap.

Financial reports filed in Morial’s effort showed he spent over \$1 million dollars, while term limits supporters spent about \$100,000. ■

Legislators May Have to Decide on Term Limits

Dan Popkey, *The Idaho Statesman*

November 8, 2001

This is just a hunch, but I think the Idaho Supreme Court is about to let the Idaho Legislature show some courage.

My guess is that lawmakers will get another chance to repeal the term limits initiative approved by 59 percent of the voters in 1994 but loathed by most legislators.

To me, the court sounds reluctant to do the Legislature's heavy lifting and void the limits. I base my guess on a layman's reading of the constitution and having watched a skeptical court hear arguments last week.

I read these tea leaves at my peril, but Stephen Safranek, the Michigan lawyer arguing on behalf of Citizens for Term Limits, seemed to capture the mood of the court: "They've come into this courtroom and asked you to do what they are unwilling to do."

Measured by their questions, Justices Dan Eismann and Wayne Kidwell sounded likely to overturn 6th District Judge Randy Smith's decision to nix term limits on constitutional grounds.

Two others, Chief Justice Linda Copple Trout and Justice Gerald Schroeder hammered at a key constitutional provision that says the law — and that includes law made by initiative — "may prescribe qualifications, limitations, and conditions for the right of suffrage."

That clause, they seemed to suggest, allows the provisions limiting ballot access to county commissioners and school trustees to six years in any 11-year period, and all other state, county and city officers to eight years in any 15-year period.

Justice Jesse Walters was silent, but if Kidwell and Eismann pick up any one of their colleagues, term limits will live and lawmakers must act to save their skins before the 2004 election.

Kidwell and Eismann seem to think this is a matter for the Legislature, which has the power to repeal an initiative just like any other law.

"The Legislature certainly could change the law," Eismann told Scott Reed, a Coeur d'Alene attorney for local officials who brought the suit that prompted Smith's decision.

Kidwell told Reed that the debate about whether candidates should be kept off the ballot for a time is "a policy argument. Isn't that a legislative problem?"

Dennis Colson, the lawyer for Senate President Pro Tem Bob Geddes and House Speaker Bruce Newcomb, could hardly get a word out before Kidwell said, "Your clients are in a very unique position to introduce legislation."

Colson said the problem was not lawmakers, but Gov. Dirk Kempthorne, who in 1999 said he would veto a bill repealing all term limits.

"It's not a simple matter," Colson said. "The difficulty might be with the governor."

That they might fail to convince the governor surely doesn't mean it's now up to the court to change state policy. And, as Eismann pointed out, a two-thirds vote in the Legislature would override a veto.

Understandably, lawmakers are reluctant to repeal a law approved by voters in 1994 and reaffirmed by a smaller margin in an advisory vote in 1998.

Geddes and Newcomb feel better about their prospects of victory in court than I do, but if they lose, they sound ready to revive the repeal cause.

Term limits have already made the Legislature a less pleasant place to serve, Geddes said. "People want to swoop in and make a legacy quick."

If he has the chance, he will try for repeal. "We'd have to test those waters," Geddes said, adding that he thinks there was a veto-proof supermajority for repeal in the Senate in 1999.

Newcomb said he had the votes for repeal in 1999, but not the two-thirds required for an override.

"If they dump it back on us, you'll see two venues," Newcomb said. "One to try to get the local officials out, because the governor was more sympathetic to that. But I also would try to see if I had the votes to do the whole thing. We'd be forced to count noses again."

That's just as it should be in a system where legislators make laws and courts limit themselves to interpretation. ■

Excerpted from *The Idaho Statesman*

Measured by their questions, Justices Dan Eismann and Wayne Kidwell sounded likely to overturn [Idaho] 6th District Judge Randy Smith's decision to nix term limits on constitutional grounds.



THE WEEKLY RADIO COMMENTARY OF THE U.S. TERM LIMITS FOUNDATION



The Same Congress

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Approval ratings for our elected officials have jumped to the highest point in memory. That's not surprising, given the shock and terror of 9/11 and the wartime conditions. But while many of our officials are serving admirably, Congress doesn't deserve the same merit badge.

First, there's the matter of how Senator Daschle dissed the house. When deadly anthrax threatened the capitol, Senate Majority Leader Tom Daschle and House Speaker Denny Hastert apparently reached an agreement to close the capitol. But then the Senators changed their minds and even attacked the House as some kind of sissies. I don't think that kind of petty backstabbing is very statesmanlike.

And Congress has chosen this time — when we're a tad preoccupied — to throw money at every special interest under the sun. Gone are the triple-digit surplus and the so-called Social Security surplus they'd promised never to

touch. Now we're running \$50 billion in deficit. Some emergency spending is unavoidable, but not nearly as much as we've seen.

And to top it all off, Congress is stealing yet another pay raise! Now they'll rake in \$150,000 a year. Even as people face the uncertainty of sons and daughters in harm's way, soaring unemployment and tough times ahead, the politicians are flocking to feather their own nests.

In the face of terror, the American people have risen to the occasion. We will remain the same America that has so often been a beacon of liberty and hope to the world. But, unfortunately, the same America has the same old Congress. One thing that sure should change. ■

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THEY SAID IT

The Greatest Thing in Oklahoma, Ever

“The greatest thing that has ever happened in Oklahoma is the term-limits law that will eradicate the likes of Charles Ford, Gene Stipe, Maxine Horner and Don Ross.”

—*Tulsa World*
November 7, 2001

No More ‘Safe’ Districts

“In the era of term limits, Latinos need not limit themselves to only seeking office in “safe” Latino districts. We should not relegate ourselves to only a few court-imposed barrios.”

—*Los Angeles Times*
November 1, 2001

Breaking the Stranglehold

“Prior to term limits, the single most common occupation in the [California] Legislature was ex-legislative staffer. The system was breeding its own, producing a Legislature of politicians adept at playing the inside-the-building game, but oblivious and unresponsive to the sweeping economic and social changes coursing through California.”

On the positive side, therefore, term limits broke the stranglehold of professional political careerists — all but a few of them white and male — on legislative decision making. Those elected to the Legislature since term limits were enacted in 1990 represent a much broader cross-section of California in terms of gender, race and ethnicity, and personal backgrounds. They are, for the most part, real people who came to Sacramento out of real jobs and local civic endeavors, wanting to accomplish something of lasting value for California, not merely launch careers.”

—*Oakland Tribune* (Oakland, CA)
October 27, 2001

State Term Limits Create California Cinderella Story

“This is becoming a pattern in the post-Willie Brown era: Serve two years as speaker, then turn into a pumpkin.”

**—*Los Angeles Times*
November 1, 2001**

Even More Popular Now

“Term limits are popular with voters because they help keep government in the hands of the people rather than the career politicians. Still, the term limits repeal movement is gathering steam in some states, and a group of Oklahoma county commissioners (who aren’t term-limited) want legislative term limits repealed here. But the people remain solidly behind term limits. Supported by 67 percent of voters in 1990, legislative term limits are even more popular in Oklahoma today as indicated by a recent survey.”

—*The Daily Oklahoman*
October 8, 2001

Term Limits in Trinidad

“Our county needs new and fresh ideas and our young people need term limits the most,” said [Trinidad term limits activist Jim] Turner. “They need leaders who will lead this county in the right direction. The elected officials we have now in our courthouse look at their positions as a job, not as a call to public service.”

“Our county cannot survive four or eight more years of living in our little cocoon,” said Turner, noting that three elected county officials have been in office more than 12 years and as many as 16 at the end of their current term.”

—*The Pueblo Chieftain* (Pueblo, CO)
November 1, 2001

Missouri Term Limits Pose Unprecedented Change

Associated Press
November 2, 2001

Term limits guarantee a new look for the Missouri Legislature after the end of next year. And that has current lawmakers anxiously looking for ways to deal with the impending change.

So concerned are lawmakers, that nearly 90 of them turned out for a three-day conference with term limits as the only item on the agenda.

They heard Friday from colleagues in states already affected by term limits and from academics who have traced term-limit-caused changes across the nation. What they heard, at least from their perspective, was not too encouraging.

“The severity of the term-limit hit in Missouri next year, I think, is unprecedented,” said Gary Moncrief, a political science professor from Boise State University who has written extensively about state legislatures and term limits. “You’ve got quite a challenge.”

Missouri voters approved a constitutional amendment in 1992 limiting lawmakers to a lifetime total of eight years in each the House and Senate. Because that election did not count toward the limits, the 2002 election will be first in which large numbers of lawmakers will be barred from seeking re-election.

Nearly half of the House members — 75 of the 163 representatives — will be forced from their seats. In the Senate, where just 17 of 34 seats are up for election, a dozen members will be forced into retirement.

Not only are term limits hitting both chambers simultaneously, but the turnover is occurring as once-a-decade redistricting forces a change in the areas that lawmakers represent. No other state legislature has experienced term limits and redistricting at the same time, Moncrief said.

Eleven other states already have seen a sizable turnover because of term limits. And there are several trends that are likely to occur in Missouri, experts said.

Term limits create a new political structure. More local government officials are elected to state legislatures, more house members run for the state senate to extend their careers and legislative leadership turns over more frequently, said Bruce Cain, a political science professor at the University of California at Berkeley who has followed

the effects of term limits in his home state.

New lawmakers are more individualistic, taking positions that point the spotlight on themselves or on issues nearest and dearest to their hearts.

“Term limits undermines the long-term relationships built on trust and therefore undermines cooperation,” said John Carey, a political science professor at Washington University in St. Louis who has surveyed thousands of past and present legislators nationwide.

A breakdown in cooperation can occur not only within chambers, but between chambers and between the legislative and executive branches, he said.

Lobbyists, facing a fresh batch of new faces, must work harder to build relations and impress their positions on legislators, said Moncrief. New lawmakers are sometimes more skeptical of lobbyists, which makes the job of issue-advocacy more difficult.

One thing that does not appear to change much is the demographic composition of legislatures, such as the average age, sex, race and education level of members, Carey said.

Missouri lawmakers, many of whom oppose legislative term limits, questioned how term limits would affect the quality and quantity of legislation, economic development and the relative power of the federal vs. state governments.

The academic experts had few answers to those questions, generally saying that more research is necessary.

The conference also had a bit of irony. Although opposed to term limits, many House members — often those barred from seeking re-election — are campaigning for Senate seats forced open by term limits in 2002.

Rep. Carson Ross, R-Blue Springs, who already is raising money for a Senate run, said he hadn’t thought of it that way. But he acknowledged that he wouldn’t be running for the Senate if term limits weren’t forcing out Sen. Bill Kenney, R-Lee’s Summit.

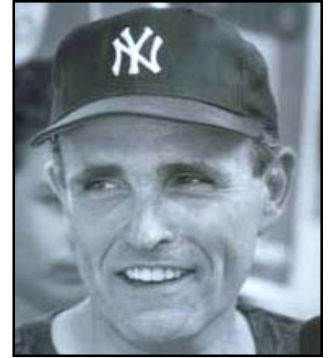
“I’ve never really been a big proponent of term limits, but I think I’ve reached a point where I feel it’s time to move onto something else (besides the House),” Ross said. Term limits “is providing me that opportunity.” ■

Reprinted from The Associated Press

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NYC'S MAYORAL MATTERS

Citizen Giuliani



In the weeks following September's terrorist attacks, as New York City worked to regain its footing, Mayor Rudolph Giuliani's hard work and inspirational example caused some to question the value of the city's term limits law.

"In free governments the rulers are the servants, and the people their superiors and sovereigns," said Benjamin Franklin. "For the former, therefore, to return among the latter is not to degrade, but to promote them." As tribute to Giuliani's record of public service, it is fitting that New York City's electoral process will elevate him to the status of ordinary citizen.

It appears that most New Yorkers agree. According to a Quinnipiac University survey released on October 2, admiration of Giuliani soared after the terrorist attacks, with 83 percent of New York City voters approving of his performance as mayor. But those same voters were in favor of keeping term limits intact, 55 to 39 percent. In other words — we love you, Rudy, but it's time for a vacation.

Giuliani is not the only person capable of filling New York City's mayoral shoes. For him to have suggested that the city couldn't do without him because of the recent tragedy was the height of arrogance and political opportunism. He may have tried to use the terrorist attacks as a pretext to further his political career, but New Yorkers didn't let him get away with it.

As was amply demonstrated on September 11, politicians aren't the people that make New York City work in times of crisis — it's the firemen and policemen who put their lives on the line in an emergency, it's the relief organizations and volunteers who patch up the cracks, it's the business owners and community centers that give their resources and facili-

ties to those in need, and it's the ordinary citizens who line up to give blood and simply get back to the business of living and working, making the city thrive again. Mayor Giuliani offered inspirational comments, directed the city's resources toward rescue and restoration efforts, and helped eliminate red tape that stood in the way of private organizations who wanted to do the same — but these are things his successor will also be able to do.

As much as the citizens of New York City love Giuliani right now, they recognize that the city won't cease to function without him. No political leader is indispensable. New York City prospers because of the millions of people who live their own lives and pursue their own dreams, creating an extraordinarily complex web of people and choices that no one person can direct or manage. When they all come together, like they have these past two months, they're not acting in accordance with a master plan — spontaneous order like this doesn't materialize at a mayor's decree.

Politicians can help facilitate this process in small ways, but they're not the ones who make it happen.

It's essential to remember that our elected leaders are our servants — and although they provide essential service, there are innumerable ways in which they might serve the public outside of a political context. It's fitting that Giuliani will leave office when his term ends. Hopefully he will continue to serve the city he loves in other ways — not as mayor, but as Citizen Giuliani. ■