

No Uncertain Terms

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Shameless California Careerists Once Again Target Term Limits

It's *deja vu* all over again for Golden State voters.

State Senator Loni Hancock, Democrat, has proposed yet another constitutional amendment to weaken California's state legislative term limits. State Senator Roy Ashburn, Republican, and State Senator Alan Lowenthal, Democrat, are co-sponsors of the bill (SCA-24).

The question, if approved for ballot, would be a near-reincarnation of Proposition 93, the politician-crafted measure that voters shot down in February of last year. The new measure, too, proposes to "reduce" the maximum tenure that could be served in assembly and senate together to a maximum of 12 years.



Loni Hancock (left), a state senator for less than a year, is already eager to torpedo term limits. Steve Poizner (right), a candidate for governor, helped lead the fight to save term limits in 2008.



In the bill as it stands, present members would not be affected by the change. The new term limit law would apply only to persons first elected to the legislature in No-

vember of 2010 or later. However, given the track record of career politicians thus far, it would not be

(Continued on Page 3)

Zelaya's Power Grab

On June 28, 2009, Honduras President Manuel Zelaya was removed from power and shipped out of the country.

So far, Zelaya's efforts to return to Honduras on a tide of widespread (and often ill-informed) international outrage at this supposed violation of democracy have failed. President Obama was among those originally demanding his return to power, a group that included Fidel Castro, Hugo Chavez, and the Organization of American States. But more recently, the U.S. has

tempered its position, and retreated from threats of trade sanctions against Honduras.

One needn't endorse every detail of how the Honduran congress, supreme court, and attorney general responded to Zelaya's attack



Former Honduras President Manuel Zelaya.

on their country's constitution and democratic institutions to observe that there was such an attack. And

(Continued on Page 3)

Are Presidential Term Limits At Risk? see p. 7



President's Corner

BY PHILIP BLUMEL

I recently read an informative and humorous little book called *Forgotten Founder, Drunken Prophet: The Life of Luther Martin* by Bill Kauffman. Martin was a representative of Maryland at the Constitutional Convention in 1787 and an example—exasperating to many—of the so-called Anti-Federalists, who feared that the new Constitution would centralize new and nearly unlimited national powers.

To protect liberties of Americans, the Anti-Federalists clamored for, among other things, a Bill of Rights and term limits. They got the former but not the latter.

In the debates over term limits, Virginian George Mason—often called the father of the Bill of Rights—pointed out that “nothing is so essential to the preservation of a republican government as a periodical rotation.” Martin argued vociferously—the only way he knew how, apparently—that the entrenched politician “will take his family to the place where the government shall be fixed; that will become his home, and there is every reason to expect, that his future views and prospects will centre in the favors and emoluments of the general government.” It’s lines like these that vindicate the word “prophet” in the book’s title.

History labels the Anti-Federalists the losers in the battle over the Constitution, but their many contributions to the document—tributes to their obstinacy and adherence to principle—greatly improved it and helped it to preserve rather than threaten liberty.

Time has proven the Anti-Federalists correct on term limits. However, to be fair, it took quite a while for their dark predictions to materialize. What the Founders called “rotation in office” was so much a part of America’s revolutionary republican creed that it was not until the twentieth century that the professional politician became the norm in Congress and in legislatures across the country.

Many of the delegates who supported rotation in office but felt that term limits were unnecessary never dreamed of a Congress in which members would hold their seats for decades. The Anti-Federalists did dream of it, and slept fitfully after leaving Philadelphia.

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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*

California (Cont'd from page 1)

a shocker if the bill were amended, or superseded by another bill, to lengthen the tenure of the current crop of incumbents.

The arithmetic of the “reduction” may seem mysterious at first. Under current law, the maximum tenure in the state assembly is six years, and the maximum tenure in the state senate is eight years. The proposed revision would allow longer occupation of either chamber: 12 years is four more years than eight years, and six more years than six years. In whichever chamber a lawmaker begins his service, under the new law he would be able to serve there longer than he can now.

According to the higher math of the career politicians hoping to bamboozle voters, however, the important thing here is that proposed amendment would shave two years from the maximum allowable service in both chambers of the legislature combined. That is, it would trim maximum two-chamber service from 14 years now (eight years plus six years) to 12 years should the amendment pass (any combination of service in both chambers adding up to 12 years).

Especially at district level, office-holders enjoy overwhelming

advantages over most challengers, with incumbent reelection rates typically exceeding 90%. A 2007 study by Robert Prener (see www.bit.ly/1YJQPs) shows that most senators and assemblyman serve

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as long as their current term limit allows. The motivation to continue serving until the limit kicks in would remain if term limits were lengthened to 12 years. It would be even stronger for assembly members—because under 12-year term limits, there would be fewer open seats in the state senate for them to run for.

Prener concludes: “The disingenuous argument for the change from six/eight limits to 12 overall is that

legislators terms will be ‘reduced’ from a potential maximum of 14 years (six plus eight) to 12. This may be the case in isolated instances, but the number of 14s is small and the number of 12s emerging will be quite large. Thus, there will be an increase—longer tenure—for the vast majority of legislators.”

Of course, sincere advocates of term limits from the time of the Founding Fathers to today have never proposed to term-limit combined service in two, three, four, or ten elective offices. The point has always been to limit the tenure of individual offices, with the goals of curbing the potential for corruption that attends longtime monopolistic control of these offices and of ensuring regular electoral competition.

Advocates of trashing term limits who, like Hancock, blame them for legislative bungling, are forgetting their history—for example, the contradictory “deregulation” of California’s power industry, perpetrated by long-term incumbents before term limits took effect in the state. In any case, few voters are impressed by the argument that being incompetent proves you should stay on the job indefinitely.

Honduras (Cont'd from page 1)

that Zelaya was intent on proceeding with it regardless of any constitutional barriers.

Like many heads of state (see p.7), Zelaya was no friend of constitutional term limits on himself. The Honduran constitution bars reelection of the president. It goes even further, however. The relevant provision, article 239, states: “No citizen that has already served as head of the Executive Branch can be President or Vice-President.

Whoever violates this law or proposes its reform, as well as those that support such violation directly or indirectly, will immediately cease in their functions and will be unable to hold any public office for a period of 10 years.”

Zelaya sought a national referendum on the question of amending the constitution. It is the Honduran congress which must approve any such referendum, and the congress did not assent. The constitutional

court, for its part, ruled that to carry out the referendum would be illegal.

Instead of retreating, Zelaya went ahead anyway, even going so far as to fire the chief of the armed forces for refusing to help carry out the referendum. After considering impeachment, the court, in cooperation with the congress, ordered Zelaya’s ouster. By his conduct, he had ejected himself from power.

Term Limits



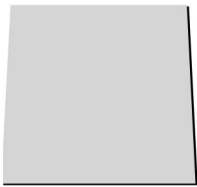
ALASKA

Under Alaska law, assemblies in the state are prohibited from chucking a voter-passed initiative for only two years after passage—so the Alliance of Concerned Taxpayers in Kenai Borough has declared its willingness to put a term limits measure on the ballot every two years to prevent term limits from being undercut by lawmakers. The group has been garnering signatures to re-pass a term limits measure passed in 2007. “If we have to do it every two years, we will,” says a spokesman for ACT. He notes that getting the signatures is “real easy” given the popularity of term limits with the public.



CALIFORNIA

A union representing employees of San Diego County is sponsoring a signature-gathering drive to limit members of the town’s board of supervisors to two four-year terms. Sharon-Frances Moore, president of Local 221, says, “We need new leaders with new ideas to improve the quality of life in San Diego County—leaders who are not focused on their own issues and benefits.” For the past decade or more, incumbents on the five-member board have enjoyed a 100% reelection rate.



COLORADO

Pitkin County Commissioner Patti Kay-Clapper wants voters to weaken term limits for county commissioners even more, confirming our oft-confirmed observation that incumbents never want just an inch when it comes to lengthening their incumbency. In 2001, Pitkin County voters increased the allowable consecutive terms from two four-year terms to three. But: “I like this job,” says Kay-Clapper. Fellow Commissioner Michael Owsley is not on board: “I think that representative government isn’t served by having people in office for really extended periods of time.”



FLORIDA

South Miami commissioners have acted to limit service on city boards or committees to two consecutive terms. The only nay vote was that of the city’s mayor, Horace Felieu. The city clerk says “we don’t have a lot of applications for boards.” But Vice-Mayor Brian Beasley believes the alleged dearth of applications has do with the fact that people don’t think they have a chance of being appointed by Felieu—who proclaims that many of the applicants he has rejected are “wackos.”



LOUISIANA

New Orleans Mayor Ray Nagin, facing the mandatory end to his tenure, had a good word to say recently about term limits. “I am term limited. I think there is wisdom in term limits. Trust me, there is wisdom in term limits.” His low poll ratings—just 24% approval from city residents, according to a May survey by the University of New Orleans—may have something to do with his acquiescence. Although his administration has been charged with corruption, the rocky recovery from Katrina seems to be the main thing voters are disenchanted about.

in the News



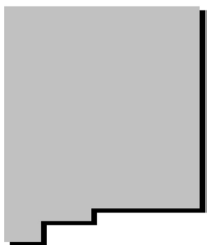
LOUISIANA

Although a bill to limit the terms of school board members throughout all of Louisiana failed this year, another to limit the school board members of Jefferson Parish to three consecutive terms did pass, despite the strenuous opposition of board members and the Jefferson Federation of Teachers. Governor Bobby Jindal signed the term limit bill into law in early July.



MASSACHUSETTS

At least two candidates for mayor of Boston support the idea of term-limiting the office. Sam Yoon says that he'll serve no more than two terms if elected and that he supports imposing formal term limits. "After two terms, staleness begins to creep into administrations. Term limits ensure fresh leadership and a healthier democracy." Kevin McCrea counters that Yoon is not giving him proper credit for "his" idea. "I'm glad that Sam is following my lead on these issues, I wish he would be honest and give me credit for introducing them first to the campaign." We suppose that if either succeeds in term-limiting the mayor's office, we'll be happy to credit both of them.



NEW MEXICO

Albuquerque Mayor Martin Chavez has announced that if reelected, his new term would absolutely be his final ever term in office—uh, maybe. The incumbent—who is serving his third term and who in 2008 sued to get the city's three-term mayoral term limit thrown out as unconstitutional—is now running for a fourth. (In 2005, Chavez had said that his third term would be his last.) Would he try for a fifth? Nope. "And that's it. That's it. Come take me. Move me to the border if I ever say that again." Wait! Not so fast. A few minutes later, having had time to mull things, the mayor said: "Well, I think it's unwise to definitively say never, never, never because I want folks to understand they have to deal with a mayor at full speed," whatever that means.



NEW YORK

As we reported in the last issue of this newsletter, one benefit that emerged from the recent legislative chaos in the New York State Senate is term limits on leadership. Other reforms were also passed in the wake of the deal to return control of the chamber to the Democrats. In addition to eight-year limits on the temporary president, the majority leader, and the minority leader, live TV coverage of sessions is being inaugurated; recordings, committee notes and other documents pertaining to the sessions will be posted on line. If these and other changes stick come the new session, they could pave the way to further reform.



NORTH CAROLINA

Mount Airy Mayor Jack Loftis says that he won't be seeking a third four-year term in part because of his belief in term limits. "I...have stated on several occasions that I do believe in reasonable term limits for all appointed and elected offices. I believe a two- or three-term limit for a mayor's position should be appropriate."

(Continued on Page 6)

Term Limits In the News (cont'd from page 5)

OKLAHOMA



John Tyler Hammons, the young mayor of Muskogee (he was 19 when elected in 2008), is calling for term limits on city officials. He states in a recent op-ed, “Initiation of term limits for all elected officials in Muskogee would provide the opportunity for others to feel empowered to serve. In turn, the city would benefit from a steady stream of fresh ideas for change and growth. I am calling for term limits to be enacted for all elected officials, including the mayor: eight years total on the city council, either as mayor or council member.”

TEXAS



Houston Mayor Bill White is afraid to directly advocate lengthening the six-year term limit on Houston mayors and city council members that voters passed in 1991. But he is thinking about putting a question on the ballot asking voters whether a commission should be set up to study whether the city’s term limits should be weakened. Clymer Wright, who helped organize the term limits ballot initiative in 1991, says such a ballot measure would be a “waste of taxpayers’ time and money, because the people have already spoken on term limits. If the politicians go against the people on term limits, the politicians always lose.”

NICARAGUA



Daniel Ortega is following the lead of Honduran President Manuel Zelaya and other wannabe dictators-for-life (see p.7) in pursuing a referendum to disburden himself of presidential term limits. According to Examiner.com’s Sylvia Longmire, “His actions are mimicking those taken by Chavez over the last several years—initially praising the democratic process, and slowly exerting more and more control over the people and public institutions. His current bid to eliminate term limits, and thus stay in power indefinitely, is another example of an attempt to further socialist goals in the region and stray further from true democratic ideals.”

They Said It

Angry-and-not-gonna-take-it-anymore New York State resident Stephen Salup says he’s considering running for state senate. He urges other good citizens to do the same.

“It is time for Thomas Jefferson’s legislature of citizen representatives to return to government, instead of the professional politicians. New Yorkers who have worked for a living should bring their real-world life and business experiences to the legislature.

“Then perhaps the right thing will be done. No guarantees, but what is certain is those who call themselves state senators today do not have these qualities, and no matter what, when they run for re-election the public must vote against them—to send a message that New Yorkers will not stand for their irresponsible and disgraceful behavior. Then the next generation of senators and their leaders will think twice before making the great Empire State the laughingstock of America.

“Throw the rascals out.”

—“Enough is enough: Only a citizen revolt can fix the state Senate,” New York Daily News

Are Presidential Term Limits at Risk?

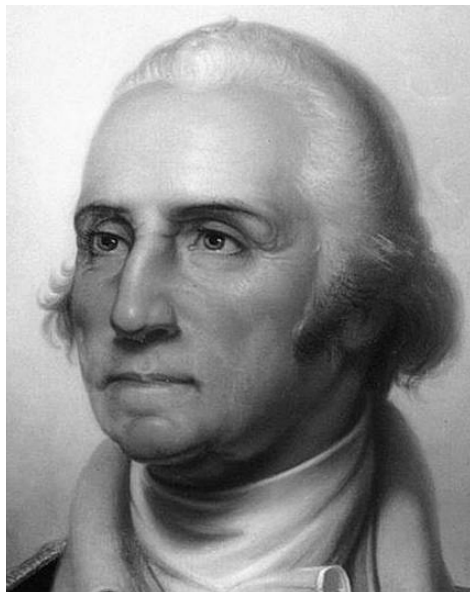
Depending on how you look at it, the answer to this question is “maybe, but not much” or “Definitely!”

We must answer that the risk is grave and chronic if our perspective is international, since constitutional limits on presidential tenure, a relatively new protection against tyranny in much of the world, have in recent years been repeatedly undermined in continents like Africa and South America.

The situation is not so dire domestically. In the United States, noises are made every once in a while about repealing the 22nd Amendment, which was passed in 1948. Bills to begin the process are regularly proposed in Congress. But these bills then tend to languish in committee.

This has so far been the fate of Representative Jose Serrano’s bill proposal for a constitutional amendment to repeal the 22nd Amendment, which he submitted in January 2009. If the repeal bid should make further progress (and it might; the current U.S. Senate Majority Leader, Harry Reid, once proposed such a bill himself), there is still quite a hurdle to surmount in this country. Like the original amendment, a constitutional amendment to repeal it must be ratified by three quarters of the states. A president cannot get his term limits scrapped by dint of an obsequious nod from an obliging Congress.

At the time of the founding, Thomas Jefferson was one of those who felt that term limits should have been explicitly mandated in the Constitution. He wrote: “If



George Washington established the tradition of America’s voluntary presidential term limit. Franklin Roosevelt ignored it.

some termination to the services of the chief magistrate be not fixed by the Constitution or supplied in practice, his office, nominally for years, will in fact become for life; and history shows how easily that degenerates into an inheritance.”

A voluntary two-term limit on presidential tenure was, remarkably, heeded by most American presidents for about a century and a half. In the twentieth century, FDR’s four-term presidency prompted a movement to term-limit the presidency constitutionally.

Domestically, then, it seems that presidential term limits are in only modest danger, at least for now. Not so in places like Algeria, Bolivia, Cameroon, Chad, Ecuador, Tunisia, Uganda and Venezuela, all of which have ditched presidential term limits in recent years at the behest of power-hungry heads of state.

In Honduras, as the finale to a long train of usurpations and abuses, President Manuel Zelaya this year tried to repeal his term

limit by flouting both Honduras’s congress and its supreme court. Defenders of the constitution responded by kicking him out of the country (see p. 1). Around the same time, in Niger, President Tandja dissolved both the parliament and the constitutional court after they had thwarted his bid to hold a referendum to kill presidential term limits.

In Nicaragua, Daniel Ortega is conniving to scrap his term limit too.

Outside observers, including many in the United States, recognize the implications of such determined scuttling of presidential term limits when it attends other power-grabbing anti-constitutional conduct. They understand that the goal of killing term limits is to ensure the longevity of dictators who never really did believe in the separation of powers and dispersion of power that in the U.S. we tend to take for granted.

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**“I think there is wisdom in term limits. Trust me,
there is wisdom in term limits.”**

—Term-limited New Orleans Mayor Ray Nagin

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