

**LEGISLATIVE TERM LIMITS:
PUBLIC CHOICE PERSPECTIVES**

edited by
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INTRODUCTION TO THE TERM LIMITS DEBATE: HYPOTHESES IN SEARCH OF DATA

Bernard Grofman

With the passage since 1990 of initiatives to limit legislative terms of service in over twenty states as of December 1994,¹ beginning with the passage of initiatives in California, Colorado and Oklahoma in 1990,² term limitation has become the focus of considerable journalistic and scholarly attention (e.g., Becker, 1990; Petracca, 1991b; Polsby, 1991a, b; Payne, 1991; Cohen and Spitzer, 1992; Coyne and Fund, 1992; Will, 1992); and there have been two national conferences on the topic, one at the University of California, Irvine in June 1991—most of the papers from which are collected in this volume—and one at the State University of New York at Albany, in October 1991—the papers from which are collected in Benjamin and Malbin (1992). While limits on term of service of state executives are quite common (e.g., twenty-nine states imposed some form of term limit on their governors as of 1988: see Beyle, 1992; Sutherland and Grofman, this volume) and usage in most of these states dates to their first constitutions, the legislative term limits that passed in 1990 were the first to apply to state legislators in the United States since the late 18th century.³

The various legislative term limitation initiatives that passed in 1990, 1992, and 1993 differed in terms of lengths of service permitted and in concurrency requirements, and in other ways as well. Even the first three initiatives passed in 1990 differed considerably from one another. In Oklahoma the limit was a total of 12 years service in either branch of the legislature. In California there was a limit of three terms of service in the Assembly (six years) and two terms of service in the State Senate (eight years). In Colorado, a term limit of four terms (eight years) was imposed on members of the lower house and a term limit of two terms (eight years) was imposed on members of the upper chamber. In two of the three states (California and Oklahoma) the term limitation took the form of a ban on total years (or terms) of service, while in Colorado the limit is only on consecutive service. In two of the states (California and Colorado) the limitations applied separately to service in each chamber, while in Oklahoma there was a total limit applied to service in either branch. In California, term limits were also imposed on the governor and all other members of the executive elected statewide (a lifetime limit of two terms in each case). In Colorado, in addition to limits on state legislative service, members of the U.S. House of Representatives had a six-term limit imposed

on them, and U.S. Senators had a two-term limit imposed (see, e.g., Rosenthal, 1990; Linkons, 1991).

Twenty-one states now have attempted to impose state-specific limits on congressional tenure. The constitutionality of state-imposed restrictions on length of congressional service has been successfully challenged in court in three states—in two of these, in Arkansas and Nevada, the decision was by a state court,⁴ in the other case, in Washington, term limits were overturned by a federal court.⁵ The U.S. Supreme Court is scheduled to decide the constitutional question of the ability of individual states to impose congressional terms on the members of Congress from their state in the Fall 1994 term when the Arkansas case comes before it.⁶

Roughly contemporaneous with the initiatives affecting state legislatures, there have been attempts to impose term limits at the local level—many of which have recently been successful in cities such as San Antonio, New Orleans, Cincinnati, Spokane, and Washington, D.C. Indeed Petracca and O'Brien (this volume) point out that over a third of the nation's 60 largest cities have adopted term limits in the past several years. Other local term limits antedate the present-day reform movement (see Cain, this volume; Petracca and O'Brien, this volume).

Term limits raise a number of interesting questions for democratic theory and empirical analysis. As with earlier crusades that came with a great deal of moralistic baggage attached, e.g., prohibition or women's suffrage, proponents of a reform inevitably have grossly exaggerated notions of what can be expected from it. Indeed, the causal link between various of the manifest evils that term limits is supposed to rid us of—such as unresponsive politicians insulated from political accountability, bloated government, and an interest group stranglehold on politics—and the consequences of term limits reform are often quite tenuous.⁷ Moreover, there is not even agreement as to what exactly the key problems are. Many Public Choice scholars, who emphasize that the legislative demand for pork-barrel policies is in large part driven by the perceived need to make constituents happy, would wish to reduce legislative responsiveness. For them the problem is that present legislators are already too responsive to what will buy them voter loyalty. In contrast, scholars who emphasize the insulation from constituency control that prolonged safe reelection may bring, talk about the need to increase legislator responsiveness. Both groups may favor term limits, yet with very different expectations as to what term limits will accomplish, or the exact mechanisms through which changes will occur.⁸

ORGANIZATION OF THIS VOLUME

The principal focus of this volume is on predicting the consequences of state legislative and congressional term limits in the United States. This volume is organized into four sections. The first section looks at the expected impact of term limits on legislator behavior and electoral responsiveness; the second deals with the expected impact of term limits on legislative turnover and party balance; the

third with voter attitudes and the contemporary movement for legislative and congressional term limits in the U.S.; while the fourth looks at evidence about the effects of term limits in other settings, e.g., local elections in California, gubernatorial elections, elections in Costa Rica.

Impact of Term Limits on Legislator Behavior and Electoral Responsiveness

The first section of the volume deals with propositions about the likely impact of term limits in terms of the nature of the link between the legislator and his/her constituency and in terms of what will happen within the halls of the legislature.

As noted earlier, often mutually contradictory hypotheses about the expected impact of term limits on legislative action have been proposed by different authors. For example, Grofman and Sutherland (this volume) make the commonsense point that, since few would deny that, *ceteris paribus*, gubernatorial term limits weaken executives vis a vis legislatures, we should analogously expect that legislative term limits will strengthen executives vis a vis legislatures. Will (1992:177) predicts the exact opposite were term limits to be imposed on Congress.

One can not, of course, be sure that a Congress composed of non-careerists will more forthrightly deal with the sort of difficult problems that, in a democracy, should be dealt with by representative and deliberative institutions. But surely term limits will increase the likelihood that Congress will reclaim its role as the center of American government. This will mean putting both the courts and the presidency where they belong.⁹

The opening essay in this volume, by Bruce Cain, provides a balanced and comprehensive overview of the often mutually contradictory propositions in the research literature on the projected consequences of term limits for legislative behavior and legislative organization, and on the reasons offered in support of these propositions. While asserting that most political scientists who have written on the topic have tended to oppose term limits, Cain notes that the debate "reveals how little we actually know about their real effects" and how normative perspectives tend to shape views about likely consequences. Cain expresses considerable skepticism that the consequences of the imposition of term limits will either be as desirable as proponents argue, or as pernicious as its most vocal opponents fear. Cain observes that "the impact of term limitations can be easily mitigated by many other factors; . . . that the effects will vary with the type of legislature on which they are imposed; and . . . the effects will vary with the length of the term limit *per se*."¹⁰

To a remarkable degree, contemporary arguments about the desirability of legislative and congressional term limits can be shown to echo the debates about both congressional term limits and presidential term limits that took place when constitutional ratification was being considered, especially those of the Founding

Fathers at the Philadelphia Convention (Petracca, this volume; Malbin, 1992; Grofman and Sutherland, this volume, Section IV; cf. Jillson, 1988). Term limits were a part of the anti-Federalist agenda as a means to insure rotation in office. The post-Revolutionary period was characterized by a strong distrust of state executives (by analogy to colonial governors), with the legislature seen as the repository of the popular will. The earliest period of our nation's history was also generally characterized by substantial anti-federalist sentiments at the state and local level, including support for very short terms of service and for rotation in office, as well as an expectation that legislators would be bound by instructions from their constituents. Most early state constitution had one-year terms of legislative service. Pennsylvania, which had the most "radical" of the early state constitutions, also had an explicit provision for term limits. By the early 19th century, popular confidence in the legislature was diminished—as summarized in the aphorism: "No man was safe while the legislature was in session."

Many contemporary proponents of term limits argue, similarly to their anti-Federalist forbears, that term limits will increase political competition and, in the process, also increase legislative responsive to the popular will. Term limits are held to prevent concentration of power and return us closer to the virtues of civic republicanism by reducing the importance of professional politicians and facilitating the election of "citizen-legislators" (Petracca, 1991b; Mitchell, 1991). For these reformers, term limits is a return to an earlier model of politics, often called the civic republican model, in which government of the people is to be by the people as well as for the people. For many contemporary reformers whose views are in the anti-Federalist tradition, term limits on legislative careers is not merely a desirable goal, it is a crusade. Like Christ driving the money changers from the Temple, such reformers seek to purify the practice of politics by freeing it from the contamination of professional politicians.¹¹

On the other hand, other proponents of term limits view them in the context of party politics rather than citizen politics. Parties were not part of the Madisonian vision as expressed in the *Federalist Papers*. It was not until much later that political theorists constructed a role for political parties as the principal engines of democracy, rather than as agents of faction.

Glazer and Wattenberg, in the second essay in this volume, argue, i.a., that the imposition of term limits will strengthen the party system by enhancing the role of political parties in candidate recruitment and strengthening the importance of party labels as voting cues.¹² But, in contrast, anti-federalist thinkers remain deeply skeptical of political parties. Thus, although Glazer and Wattenberg share a "bottom line" with other proponents of term limits, some of the consequences they expect from term limits would probably give other advocates of term limits pause. However, other parts of their argument are consistent with those of proponents of term limits who fall more clearly in the anti-Federalist tradition.

In particular, Glazer and Wattenberg regard the most important activity of the legislature as that of enactor of public policies, and argue that legislative term

limits will motivate politicians to attend more to the “deeper problems of the state or the nation” by limiting possible legislator concern for continued reelection to his/her present office and by increasing a legislator’s incentives to seek higher office. Glazer and Wattenberg also argue that term limits will reduce the influence of special interests. Their argument is multi-faceted and draws heavily on microeconomic reasoning as well as common sense, e.g., on the one hand, they note that short-term politicians will not be as influential with bureaucrats and thus interest groups will find it harder to access the bureaucracy for special treatment via legislators whom they have in their debt, and on the other hand, they note that retired legislators hired by interest groups as lobbyists will be of lesser value to these groups because there will soon be no legislators remaining in the legislature with whom these lobbyists have served.

The line of contemporary argument against term limits that is most directly analogous to the views put forth by Madison in the *Federalist Papers* is that of Cohen and Spitzer (1992), summarized in the third chapter of this volume. They argue that term limits induce a shorter-run time perspective among elected officials that leads to bad public policy, and weakens citizen control by denying use of reelection as an incentive to keep politicians both honest and politically responsive.¹³ Cohen and Spitzer model legislator accountability in terms of a prisoner’s dilemma, in which a problem of concern is to deter end-period defections. They show that an iterated P.D. game with an uncertain end point can induce public-spirited behavior even among narrowly self-interested politicians, especially if at least some politicians are genuinely public-spirited.¹⁴ Much of the Cohen and Spitzer essay can be taken as a straightforward formalization of ideas in the *Federalist Papers*.¹⁵ The link between the Public Choice perspectives of Cohen and Spitzer and Federalist views reinforces the claims of earlier scholars (Buchanan and Tullock, 1962; Grofman, 1989) that students of Public Choice can be thought of as the natural heirs of Federalist political thought.¹⁶

The fourth chapter of the volume, by Elizabeth Capell, herself a lobbyist, looks at a number of the arguments about the likely consequences of term limits for legislative organization and at the question of whether term limits can be expected to increase interest group influence (as term limits opponents argue) or to decrease it (as its supporters claim). While cautious about her predictions, Capell argues that term limits in California will advantage high resource groups, but force an expenditure of higher resources by interest groups relative to the effectiveness and predictability of their lobbying efforts.¹⁷

Gerber and Lupia, in the fifth chapter of the volume, look at incentives for responsive legislators in the context of an election game with both a challenger and an incumbent. They argue that, even if the imposition of term limits were to increase legislative competition, as most scholars have hypothesized would occur, “an increase in competition is neither a necessary nor a sufficient condition for greater responsiveness.” They suggest that reformers concerned with increasing

legislator responsiveness might be better off to look at other types of reforms, e.g., ways in which voter knowledgeability could be increased.¹⁸

The last chapter in the first section of the volume is by Reed and Schansberg. They look at the spending behavior of members of Congress (both in the House and in the Senate) as a function of seniority, using spending scores calculated by the National Taxpayers Union. They test the hypothesis that there is a culture of spending that permeates the federal government such that the more exposure to it members of Congress have the more likely they are to be profligate with taxpayer money. Using both cross-sectional and longitudinal data they confirm the hypothesis that length of stay in office increases the propensity to spend. However, they also show that such a finding "does not necessarily translate to the conclusion that forcing shorter stays on members of Congress would lead to lower levels of federal spending." Moreover, when Reed and Schansberg estimate the magnitude of differences in spending behavior among members of Congress at different levels of seniority, they find the relationship between spending and tenure to be virtually negligible in practical terms.

Impact of Term Limits on Legislative Turnover and Party Balance

The second section of the volume looks at ways of predicting the impact of term limits on legislative turnover and party balance.¹⁹

The first essay in the section, by a team of political scientists headed by Gary Moncrief, looks at recent data from state legislatures on how long members serve. It concludes that, given defeats and retirements, most term limit proposals would only knock off the tail end of the incumbency distribution and thus have only a limited impact on overall legislative tenure in state legislatures.

The next two essays in this section, by Robert Reed and Eric Schansberg, and by John Gilmour and Paul Rothstein, written prior to the partisan "sea change" of the 1994 elections, look primarily at partisan implications of term limits. Both sets of authors focus their empirical analyses on the U.S. Congress. Both authors find the expected Republican gains, but both are cautious in predicting probable effects only within a broad range. Reed and Schansberg suggest that term limits of the sort that have been proposed will give rise to a *net* seat gain for Republicans in Congress of from 5 to 20 seats. Gilmour and Rothstein's estimates of effects depend largely on whether or not data for only the then three most recent congresses are used or whether data over the past eleven congresses are aggregated. Using the parameters derived from the longer time frame yields the prediction that even the imposition of term limits as low as six terms will have only minuscule (low single digit) partisan implications; on the other hand, using data from only the most recent congresses yields estimates of partisan impact comparable to those at the upper end of the Reed and Schansberg range, a net Republican seat gain in the low 20s.²⁰

Gilmour and Rothstein's principal theoretical concern is to provide a dynamic model of partisan turnover that can generally be fitted to data to yield steady-state predictions. Like Reed and Schansberg, they are careful to note that care must be taken in developing predictions because certain parameters taken as fixed (e.g., retirement rates) may in fact change with the imposition of term limits. However, once such parameters are re-estimated, a new steady-state prediction can be derived from their model.

The last essay in this section, by Grofman and Sutherland, suggests a further note of caution. It argues that candidate recruitment and level of political competition may need to be dealt with endogenously.²¹ In particular, following up on and formalizing insights in Mann (1992), Grofman and Sutherland offer a simple model in which, for some parameters, term limits may actually lead to diminished competition because (strong) challengers delay their candidacies until a seat is open because of (forced) retirement. Also, they provide empirical evidence that the imposition of gubernatorial term limits has had almost no effect on mean gubernatorial tenure.

Voter Attitudes and the Contemporary Movement for Legislative and Congressional Term Limits in the U.S.

The third section of the volume deals with identifying the factors that fostered the growth of term limits movement in the U.S. and that have led to the vast popularity of term limits among voters.

The best single predictive variable for the adoption of legislative term limits is whether or not a state has an initiative procedure. A majority of states with such procedures have now adopted legislative term limits. Legislative term limits appeared to be an idea whose time had come: once the potential for successful term limits initiatives was demonstrated, a remarkable bandwagon was started. Grofman and Sutherland (1991) suggested that the considerable increase in legislative professionalism (as manifested in increased staffing levels, months in session, number of bills) since the 1960s might be playing a triggering role for movements to impose legislative term limits as a check on legislative power. However, the states that have recently adopted legislative term limits represent a range of legislative professionalism. Why was there so much public support for legislative term limits?

While the term limits movement may have its strongest roots in anti-Federalist thought,²² term limitation supporters are found across the ideological spectrum. One reason for the wide range of support for term limits is that it is a solution in search of a problem. Some support term limits because they see it a way of downsizing government; others because they see it as a way of restoring governmental vigor and ending the alleged deadlock caused by a special interest "lock" on politics. Some proponents see term limits as a way of strengthening the

legislature; others as a way of weakening it. Similarly, as noted earlier, some proponents see term limits as a way of strengthening political parties; others as a way of replacing party hacks with citizen legislators who will be of superior virtue if not of superior quality in terms of formal qualifications.²³ Many journalists and scholars have suggested that we can understand contemporary public support for term limits as not really support for a specific institutional change but rather as an expression of generalized discontent with government based on a feeling that it is “out of control”—a discontent also reflected in the earlier initiative-driven “taxpayer revolts.”²⁴ In this context it useful to note Malcolm Jewell’s observation that a number of the key organizers of term limits campaigns “have been heavily involved in initiatives designed to place caps, or rollbacks on taxing or spending at the state or local level” (Jewell, n.d., 3).²⁵

Another seeming anomaly with respect to the successful movement for term limits is the failure of incumbent legislators in most states to publicly oppose term limits. I would account for the general unwillingness of legislators to stick their neck out to oppose a popularly supported movement for term limits to their sense that doing so gained them no votes and might cost them votes (all the intensity was on the other side), and had a limited potential for gain (i.e., what we had was a prisoners’ dilemma situation in which no single legislator had an incentive to defend the *collective* interests of incumbents, except perhaps for a party leader whose successful opposition would put his fellow legislators in his debt), and to the problem that legislators had in articulating a defense for unlimited terms that did not seem self-serving. Indeed, some incumbents openly backed term limits, either for reasons of ideological conviction, or perhaps as a way of gaining favorable voter exposure with an eye toward seeking higher office in the future.

In the first essay in this section of the volume, Boeckelman and Corell look at eighteen statewide term-limit elections held between 1990 and 1992. They consider three factors that might affect voter support for term limits, the race of the voter, the partisanship of the voter, and voter alienation. They find that, on balance whites are more likely to support term limits than blacks and that Republicans have greater levels of support than Democrats, but that these patterns were not statistically significant for all states. Also, support for term limits among Republican voters was, on balance, less in states where Republicans were in control of the legislature. Boeckelman and Corell find mixed results for measures of alienation. They do find, however, an overlap between the constituencies of the term limitation movement and those for Ross Perot’s presidential bid.

Many journalists have alleged that the present-day movement for term limits is tied closely to a partisan “hidden agenda” based on the belief that imposing legislative term limits will benefit Republicans because there are more incumbent Democratic state legislators than Republican ones (by nearly two to one) and more Democratic members of Congress than Republican ones.²⁷ Furthermore, as Ehrenhalt (1991) has argued, the average Democrat is more likely than the average Republican to find a lifetime career as a legislator attractive, relative to the career

options available to him (or her). But, if legislative term limits are imposed, then the potential for achieving a leadership role with only modest years of service is enhanced, since there will be more turnover in such positions. This might make it easier for Republicans to recruit legislative candidates (Grofman and Sutherland, this volume). These arguments suggest that dramatically reducing the potential for making politics a full-time career should impact more negatively on Democrats than on Republicans.²⁸

The view that term limits were seen by voters as having partisan implications is buttressed by evidence that voter support for legislative term limits was tied to partisan divisions, with Republicans generally supporting term limits at somewhat higher levels than Democrats, as reported by Boeckelman and Corell and by Rausch and Copeland in the second chapter in this section. While analysis of who sponsored and funded term limit initiatives makes the notion of a partisan linkage far from crystal clear, since often the initial drive was partially bankrolled by some prominent wealthy individual for reasons that are hard to characterize, on balance more Republicans qua Republicans were involved in pro-term limits campaigns than Democrats, Republicans were directly involved in the national campaign for term limits (Rothenberg, 1992); and if there was organized opposition to a term limits initiative, Democratic party leaders were likely to be leading it (Jewell, 1993).

Still, at the voter level, partisan differences in support for term limits were not huge, since, with a few exceptions, such measures were strongly supported almost across the board. In their review of the first three-term limit initiative campaigns in 1990 reported in the second chapter in this section, Rausch and Copeland find that the partisan differences among voter support for term limits was minuscule in California, quite small in Oklahoma, and largest, but still only on the order of 10 percentage points, in Colorado.²⁹ Rausch and Copeland find bipartisan support at the elite level for the term limits initiative in Oklahoma and Colorado. As they observe, the term limits crusade can bring together some unlikely bedfellows. Anti-Federalist sentiments that make professionalized politics anathema are found among left-wing populists as well as among conservatives. Adherents of 1960s style "power to the people" often join country-club Republicans in singing the praises of term limits.³⁰

Rausch and Copeland also observe that while the term limits were relatively noncontroversial in Oklahoma and Colorado, the California initiative was hotly contested, with Democratic legislative leader Willie Brown masterminding an expensive paid media campaign with such highlights as anti-term limits commercials by Angela Lansbury.³¹ In 1990, in Oklahoma and Colorado the term limit proposals won handily; in California it was closer.³² Rausch and Copeland also report national polling data that show support for term limits of over three quarters of the population by 1991, and they point out that, even as early as 1981, a majority of voters expressed support for the idea of term limits. The polling data they report do suggest, however, that support for term limits falls off among the better educated, those of higher SES, and among liberals.

The third chapter in this section, by Dick and Lott, explains how voters may prefer to retain their own legislator, yet come to support term limits, because voters, on balance, may prefer that those in other constituencies be deprived of their ability to retain incumbents *ad infinitum*. They treat the term limit decision as like an externally imposed solution to a prisoners' dilemma game in that "placing a limit on the tenure of all representatives ensures that no one district will benefit at the expense of other districts when their representative is removed from office." They also argue that the greater the role of government in enacting policies that transfer wealth, the greater will be the costs of giving up the advantages of seniority for your own representative. Thus, in their view, the magnitude of incumbency advantage is in part a function of the size and nature of government activities.

The fourth chapter in this section, by Friedman and Wittman, argues that legislative term limits "redistributes power from constituencies with long-run incumbents to constituencies with short-run incumbents, from the legislative to the executive branch, and from one political party to another." Writing in language familiar to Public Choice scholars, Friedman and Wittman argue that "rational voters who benefit from the redistribution in political power will vote in favor of term limits; those who are hurt will vote against." This perspective leads Friedman and Wittman to hypothesize that, in a state controlled by Democrats, support for term limits will be higher among Republicans than among Democrats. They also hypothesize that, *ceteris paribus*, support for term limits will be stronger in districts with short-term incumbents. Friedman and Wittman (forthcoming) find support for this latter proposition.

The last chapter in this section, by Alexander Tabarrok, develops an argument based on ideas of risk aversion that leads him to hypothesize that term limits are most likely to be passed in states with a high degree of ongoing political conflict (an indicator of which is divided government), an expectation which his data confirm. Like Dick and Lott, Tabarrok is concerned to account for the puzzle of voters simultaneously passing term limits and voting to reelect their own incumbent. Drawing on ideas of relative risk aversion that lead him to hypotheses similar to those in Friedman and Wittman, Tabarrok finds empirical support for the proposition that "the greater the average tenure of a state's congressional delegation, the less likely that state is to vote for term limits."³³ Tabarrok is also concerned with another puzzle: different levels of support for term limits on different types of offices, as evidenced in a negative correlation between passage of congressional term limits and the presence of gubernatorial term limits. Another area he investigates is the importance of voter backlash against dishonest politicians as a motivating force for congressional term limits reform.

Term Limits in Historical and Comparative Perspective

The last section of the volume deals with the evidence that is available on how term limits have actually worked in jurisdictions of various sorts in the U.S. and elsewhere.

The first chapter in this section is by Mark Petracca. Petracca traces the idea of rotation to Greek and Roman practices and discusses its use in the constitution of Venice in the Middle Ages and early Renaissance. He then discusses its treatment in English political theory of the 17th and 18th centuries and provides an extensive historical review of the arguments about rotation that emerge before and after the American revolution up through the 19th century age of spoils, when rotation in office comes into disfavor. Petracca also traces the history of the use of term limits in a variety of settings. Petracca, who has been one of the leading academic advocates of term limits over the past several years, is very sympathetic to the assessment by James Bryce in 1910 that "Rotation in office . . . is . . . conformable to the genius of a democracy."

The second chapter in this section, by Grofman and Sutherland, considers evidence from a 200-year data base on gubernatorial term lengths. They test the hypothesis that increases in gubernatorial term lengths and the imposition of some form of term limitation are interlinked, plot the geographic pattern of term limit usage over the 200-year period to examine diffusion and regional variation, and investigate the extent to which term limits, once instituted, remain in place. They argue that restrictions on term lengths and restrictions on number of terms in office are complementary ways to limit the power of members of a given branch of government. Thus, considerations of term limits will frequently be non-separable (in the technical sense of that term) from considerations of term lengths. They find a pattern of geographic diffusion of gubernatorial term lists from the southeastern states, but with some areas of the country displaying strong historical resistance to term limits. They also find that, except for southern states forced to rewrite their constitutions to obtain readmittance to the Union after the Civil War, gubernatorial term limits, once imposed, tend to remain in place. Grofman and Sutherland suggest that this is likely to hold for legislative term limits as well.

Mark Petracca is co-author of the third chapter in this section along with Kareen Moore O'Brien. This chapter reviews the experience with term limits of municipalities in Orange County, California. Over a third of the municipalities in the County now have term limits, with several of these cities having added them only very recently. Their data is based on responses to a survey sent to elected officials in seven cities that already had term limits and seven cities without such limits but in which campaigns for term limits were quite active.³⁴ Petracca and O'Brien report perceptions of city council members about a number of issues having to do with the impact of term limits, such as whether or not term limits can be expected to increase the influence of interest groups or lower the quality of candidates. One of their most unexpected findings was the support for term limits

on the part of some sitting council members whose terms were not limited and the role of some incumbents in getting municipal term limits placed on the ballot.

Controlling for city size, Petracca and O'Brien also look at the degree of competition (in terms of the ratio of candidates to seats) in cities with and without term limits. Here they find slightly less competition in cities with term limits. Moreover, using a longitudinal base of comparison, in every city with term limits, the "ratio of candidates-to-seats is lower following the adoption of term limits than it was before." However, this finding, counter to what proponents of term limits have suggested would occur, may in part be accounted for by long-run time trends involving decreased political competition at the local level throughout the County. Moreover, consistent with the expectations of term limits proponents, they find a substantial increase in voter turnout since the adoption of term limits.

The fourth chapter in this section, by Bruce Cain, parallels that of Petracca and O'Brien and deals with term limits in five local governments in Northern California. Data were collected by teams of undergraduate students under the supervision of two graduate students and the author, using an open-ended interview format rather than questionnaires. Cain notes that term limits must be viewed in a political context; in particular, they cannot be expected to have the same consequences in partisan legislatures as in non-partisan city councils. Once we control for time trends, Cain and his research team find that term limits had little effect on the typical characteristics of incumbents or the competitiveness of races or the policies pursued by city government with respect to important areas of controversy such as development. Also, because in the five cities studied, the mayoralty was relatively ceremonial, and the city manager served at the pleasure of the council and the council members had always been part-time, term limits appeared to have had little or no effect on balance of power within the city government.

Cain also finds that term limits had relatively limited impact on mean council tenure, which was low to begin with; they primarily served to eliminate a "small category of long term incumbents." However, one of the more unexpected findings was the way in which the absence of a lifetime ban on office-holding permitted some politicians later returns to office (including in one case a repeated shift between a position as mayor and a city council position) in such a way as to effectively limit the effects of term limits on their own careers.

The last chapter in this section is by John Carey and deals with the impact of term limits in Costa Rica, the only country to have used national parliamentary term limits over a sufficiently extended and uninterrupted period to permit useful data analysis at present. Costa Rican legislators are prohibited from running for immediate reelection. Carey shows that the severity of this prohibition is real in that only relatively rarely do legislators return to office in later years. Nonetheless, Carey argues that term limits in Costa Rica do not eliminate careerism but rather lead it to be channeled in other ways, through mechanisms of patronage. Carey also argues that term limits do not serve to eliminate legislative particularism.

Relatedly, Carey provides evidence that, in the context of Costa Rica's list PR system, term limits undermine the cohesiveness of legislative parties.

Concluding Reflections

The essays in this volume give us reason to be skeptical about term limits as a dramatic force for change and urge caution in making predictions about the effects of term limits. Cain (Section I), for example, argues that the effects of term limits will be context specific³⁵ and will depend upon the exact nature of the term limits being imposed, and he shows that plausible intuitions about politics may give rise to very different predictions about the impact of term limits. Reed and Schansberg (Section I), while finding a link between congressional tenure and willingness to spend federal monies in the anticipated direction, argue that this link is "of such small size as to be negligible for all practical purposes." Similarly, although the magnitudes predicted are certainly not negligible, both Reed and Schansberg (Section II) and Gilmour and Rothstein (Section II) predict far less of an impact of term limits on partisan balance in Congress than Republicans adherents might have hoped for. Similarly, just as Cohen and Spitzer (1992:517-518) makes the important point that term limits may prompt changes in institutions that are internal to the legislature, e.g., the committee system and the seniority system, that act in countervailing ways to some of the trends predicted by students of term limits who fail to take into account the "status quo" restoring responses of institutions to externally imposed changes, so Grofman and Sutherland (Section II) emphasize that term limits will change the incentive structure for candidacies in ways that may actually reduce competition.

Moreover, when we turn to data on political systems that have imposed term limits, we are reminded that term limitations are only one aspect of political institutional structure and are embedded in particular political cultures. For example, Carey (Section IV) shows that, in the context of a list form of proportional representation, term limits in Costa Rica have had consequences of a sort not really discussed in the literature on term limits in the United States, e.g., for the legislative cohesiveness of political parties. With the possible exception of voter turnout, both the essays by Cain (Section IV) and Petracca and O'Brien (Section IV) show only limited or zero impact of local term limits on various parameters of interest. Similarly, Grofman and Sutherland (Section II) find a very limited impact of term limits on gubernatorial tenure. Also Grofman and Sutherland (Section IV) observe that some areas of the United States have historically displayed resistance to the adoption of term limits.

Nonetheless, because the terms limits literature has provided so many predictions and arguments, and because so many of the propositions offered are mutually contradictory, it provides a rich body of insights to draw upon both for further modeling and for future empirical research, as data becomes available.

Thus my expectation and hope is that this volume will provide inspiration for a large body of new Public Choice scholarship over the course of the next decade.

ENDNOTES

1. The only statewide legislative term limit initiative to go to the electorate in 1991, that in the state of Washington, one involving both legislative and congressional term limits, was defeated, but in each of the fourteen states with legislative term limit initiatives on the ballot in 1992 the initiatives earned passage. However, Nebraska's initiative was later struck down as having been placed on the ballot improperly. Maine passed a legislative term limits initiative in 1993. In 1994, various types of term limits were passed in Alaska, Idaho, Maine, Massachusetts, Nebraska and Nevada. Colorado tightened its previously enacted term limits, while voters in Utah decided not to impose further restriction on terms of service in that state.

2. See Rausch and Copeland (this volume).

3. Pennsylvania was the only state to have a limit on legislative terms, but that term limit applied to its upper chamber at a time when the chief executive of the state was chosen by that branch of the legislature from among its members. When Pennsylvania shifted to a popularly elected executive in 1790, following the model of the national government, its term limits on legislative service were abolished (see Lutz, 1980; Thorpe, 1909). We should also note that in the federal Congress elected under the Articles of Confederation legislators were eligible to serve no more than three years in six. (We are indebted to Calvin Jillson, personal communication, May 1991, for calling this point to our attention.)

4. *U.S. Term Limits v. Hill*, No. 93-1240 (Ark., March 7, 1994); *Stumpf v. Lau*, 839 P. 2d 120 (Nevada, September 1992). In the Nevada case the congressional term limits initiative was denied a place on the ballot because of the finding that such a provision, if passed, would "palpably violate the paramount law and would inevitably be futile and nugatory and incapable of being made operative under any conditions or circumstances." (For discussion of the Nevada case see Bowers, 1992.)

5. *Thorsted v. Gregoire, Colony v. Munro*. No. C92-1763WD (D. Wash., February 10, 1994).

6. The California state legislative term limit initiative was affirmed in state court against a challenge that its language violated state constitutional provisions requiring that initiatives be restricted to a "single subject," but provisions of the term limits initiative affecting legislative pensions were struck down as falling outside the single subject proviso. The Nebraska term limits initiative was struck down in 1994 on the grounds that it had been wrongly placed on the ballot because it had not received an adequate number of petition signatures. The Supreme Court

declined to consolidate the Washington case with the Arkansas case, and the former is as of this writing (December 4, 1994) on appeal to the Ninth Circuit.

7. For example, two-thirds of George Will's paean to civic republicanism, *Restoration*, is taken up with a powerful critique of the failures of government policies in the United States: with a focus on pork, power and perks, bloated bureaucracies, and mindless regulation, before he even gets to term limits. Will term limits cure, or even ameliorate, such problems? Especially problematic is the link between gerrymandering and term limits. Will includes in his critique of government an attack on tortuously shaped congressional districts whose creation was tied to incumbency preservation, on the one hand, and voting rights concerns, on the other. Moreover, these districts were drawn by state legislatures, not by Congress. Presumably citizen-legislators elected to Congress whose terms are limited will be less likely to insist on districts designed to preserve their own short-lived incumbencies. Yet, a strong counter-argument can be made that state legislators, faced with term limits, will be more inclined to gerrymander congressional lines so as to create new seats for *themselves*. My own view, as a redistricting specialist, is that the latter effect will be far stronger than the former. Also it is well to remember that gerrymandering can be used to affect the partisan balance. Arguably, the presence of minority members with whom one will have to deal in the future has inhibited partisan gerrymandering in the past and led to "sweetheart deals" that preserve the constituencies of incumbents of both parties. Term limits may reduce the incentive for such bipartisan deals and increase the likelihood of partisan gerrymandering. As of this writing, no legislative redistricting plan has ever been held to be an unconstitutional partisan gerrymander, even though the Supreme Court in 1986 held political gerrymandering to constitute a justiciable constitutional claim under the equal protection clause of the 14th Amendment (Grofman, 1991).

8. For a useful discussion of responsiveness in the context of term limits see Boeckelman (1993).

9. Will (1992:177) goes on to assert: "Critics who say that term limitation will make Congress a bewildered and deferential handmaiden of the presidency are missing a point. A Congress whose members are cured of careerism will be less risk-averse and more vigorous. Such a Congress will not only leave courts less latitude to act as legislatures, it will more readily risk challenging the president, whoever he is, as the definer of the nation's agenda."

10. An earlier and less complete inventory of propositions about term limits is found in American Enterprise Institute (1979).

11. A useful comparison of the perspectives of "professional" versus "citizen" legislators is Opheim (1990).

12. Similar arguments are made by Brady and Rivers (1991). A discussion of the views of Brady and Rivers is found in Cain (this volume, Section I).

13. An important earlier work that makes similar points in terms of a model of the politico-business cycle is Chappel and Keech (1983).

14. Cohen and Spitzer refer to such public-spirited politicians as "Mother Teresas." They argue that, if voters cannot distinguish between self-serving and Mother Teresa candidates except on the basis of their actions, then "rational candidates will mimic the actions of their betters."

15. In addition to the time-perspective argument, political science opponents of term limits also argue, i.e., that they needlessly eliminate experienced public servants and reduce legislative professionalism, deny voters their right to elect candidates of choice, create lame-duck politicians, and strengthen the power of interest groups (see, e.g., Polsby, 1991a, b; Copeland, 1992).

16. However, as is evident from other essays in this volume, such as that of Glazer and Wattenberg, Public Choice scholars come down on both sides of the term limits debate.

17. For important related discussion that take a somewhat different perspective, the reader should consult Alexander and Bhojwani, 1991; Clucas, 1993.

18. Similarly, Gary Copeland (personal communication, 1991) has observed that term limits can be thought of a cheap and easy substitute for campaign finance reform as a way to get more competition.

19. None of the chapters in this volume deal to any extent with the likely impact of term limits on racial or gender representation. For a specific discussion of those issues see Thompson and Moncrief (1993). I would note though that, because minority seats are disproportionately safe, the operation of seniority has given minority legislators elected in the last decade the opportunity for considerable power in state legislatures and Congress, and that term limits would cut into that advantage (Bositis, 1992; cf. Richardson, 1993). Minority legislative and congressional gains in the South came about largely as a result of the Voting Rights Act (Handley and Grofman, 1994; Handley, Grofman and Arden, 1995 forthcoming). It has been suggested that term limits might constitute a violation of the Voting Rights Act (or of the U.S. Constitution directly) if their differential impact on the opportunities for legislative advancement of minority legislators could be shown to be severe (Gay, 1993), but my own reading of very recent Supreme Court decisions on the scope of the VRA suggest that this would be held to be an unrealistic stretching of the domain of the Act and of the 14th and 15th Amendments.

20. Other important relevant works are Mondak (1993) and Francis and Kenny (n.d.). See also Opheim (1994). For a general discussion of congressional tenure and the congressional career cycle see Hibbing (1991).

21. This point is reinforced when we consider that, even before term limits have actually guillotined legislative careers, in anticipation of their effects, many legislators have already bailed out of the legislature. In California, where the Assembly has 80 members; more than a quarter (22) retired in 1994. However, 18 of the 22 retirees filed for other offices (Gillam, 1994).

22. Anti-federalist views seem to rise and fall in a cyclic pattern. The early 20th century populist push for initiatives, referenda, and recall can also be seen as a resurgence of anti-federalist sentiment.

23. A parody of this goal of the term limits movement appeared in the tongue-in-cheek *Journal of Irreproducible Results* in the form of an imaginary newspaper article:

There appears to be growing support in the United States, especially among retired politicians, for a proposed constitutional election reform. Under the proposal, anyone who wishes to run for elected office would be prohibited from doing so. The proposed constitutional amendment cites a need to have a "higher caliber of persons entering political life." It reportedly has backing from all the living former U.S. presidents except Ronald Reagan ("U.S. Election Proposal is Seen Gaining Support," 1993:10).

24. See, e.g., Clymer (1992).

25. The extent to which tools such as the initiative that have proved successful for one purpose are then adapted for use in other contexts so as to create a kind of cascade effect is an important topic of inquiry.

26. Of the 7,396 state legislators holding office in 1991 who had run as party designees, 60.4 percent were Democrats. Similarly, Democrats have almost always controlled both branches of Congress since 1932, and the total number of Democratic members of Congress (combining House and Senate) has exceeded the number of Republican members in every year since 1954 until the "Homicide on the Hill" of 1994.

27. As noted above, two of the essays in this volume (by Gilmour and Rothstein, and by Reed and Schansberg) directly address the likely partisan consequences of term limits from both a theoretical and an empirical perspective.

28. However, the magnitude of the estimates for partisan differences will depend upon whether or not controls are introduced for other factors (such as SES differences) that impact on support for term limits, and the exact nature of those controls.

29. As noted earlier, in general, the current proponents of term limitations do not all agree as to what are the specific evils that this reform is intended to ameliorate. However, it is well known that the successful movement to limit presidential terms to two that culminated in the passage of the 22nd Amendment in 1951 was sparked in good part by Republican unhappiness with the era of Democratic dominance under Franklin Delano Roosevelt (Stein, 1972).

30. For other informative discussions of the differences between Republican and Democratic voters with respect to support for term limits in these and other states, and consideration of the partisan (and other) roots of the term limits initiative movement in the various states, see Rausch, 1993; Luch, 1993; Donovan, 1993; Donovan and Snipp, 1994; Jewell, 1993; Titus, n.d.; Friedman and Wittman, forthcoming; and various of the essays in Benjamin and Malbin, 1992.

31. The sole loss of a statewide term limits initiative, that in Washington in 1991, has been blamed on the fact that it would have been retroactive (Coyne and Fund, 1992:10).

32. In a study of state legislative term limits, looking at margin of support for initiatives in those states where term limits were on the ballot, Jewell (1993) does not find support for the hypothesis that states with the more professionalized legislatures would exhibit higher levels of support for term limits. However, in at least some of the states with professionalized legislatures the campaign against term limits initiatives led by incumbent legislators with a great deal to lose may have been fiercer than in states where there was no organized opposition to the reform proposal.

33. Some of those cities subsequently adopted term limits. Petracca and O'Brien also note that no local term limit initiative has yet failed in Orange County, at least in recent memory.

34. See also Cain (this volume, Section IV).