

# Term Limits Tide Recedes

Support for term limits has steadily declined as voters learn about the danger this deception poses to the Constitution.

by Robert W. Lee

*Nothing appears more plausible at first sight, nor more ill-founded upon closer inspection....*

—Alexander Hamilton on term limits, *The Federalist*, No. 72

On January 24th, the Idaho House of Representatives voted 50 to 20 to scuttle a 1994 statute to impose term limits. Idaho's Senate followed suit, 27 to 8, on January 30th.

Such a term limits defeat may seem remarkable considering the waves of term limits fervor that rolled across the country during the 1990s. But unlike tides, the rise and fall of term limits did not result from natural forces. The movement was man-made from the beginning — and so has been its demise as the enchantment of this terribly bad idea fades away.

## Some Background

The term limits lobby began scoring victories at the polls in 1990, when voters in three states approved ballot initiatives capping the terms of their local, state, and/or federal officials. Between 1990 and 1994, another 18 states approved similar measures (in Utah and New Hampshire the state legislatures imposed limits). Rather than receiving thorough, sober scrutiny that such a drastic change in electoral policy merited, emotional campaigns largely fueled by special-interest money from outside each state beguiled even many conservatives to board the seemingly unstoppable juggernaut. These conservatives erroneously perceived term limits as a potential solution to the domination of Congress by Eastern liberals. Since then, however, support for term limits has waned to the point that the juggernaut appears to have not merely slowed, but to have shifted into reverse, as voters have become better informed regarding the reasons why so many of our nation's Founders — from James Madison and Alexander Hamilton

to John Adams and Gouverneur Morris — adamantly opposed the notion of making lame ducks of elected officials via term limits.\* They recognized that politicians who want to get re-elected will bend to the will of their constituents, while politicians who can no longer be re-elected have little



**Constitutional crusader:** Don Fotheringham, who led the John Birch Society's "Preserve the Constitution" project for many years, believes the group's members contributed mightily to stalling the drive for term limits and a modern-day constitutional convention.

incentive to worry about what their constituents think.

*In fact, the Founding Fathers rejected term limits at the Constitutional Convention of 1787. And on May 22, 1995, the U.S. Supreme Court recognized this clear intent by ruling in *U.S. Term Limits, Inc. v. Thornton* that the U.S. Constitution precludes term limits for members of Congress, and that a constitutional amendment would be required to achieve that objective.* Proponents of term limits promptly launched a campaign for such an amend-

ment, including a call for states to convene a modern-day constitutional convention (con-con), if necessary, to conjure one up. Fortunately, that perilous approach has floundered, understandably, since only 17 states currently have term-limit laws on their books, and only two — Louisiana by legislative action in 1995, and Nebraska by initiative in 2000 — have adopted limits since the Supreme Court rendered its decision.

Term limits have been struck down by state Supreme Courts in Massachusetts, Oregon, and Washington State. In 1999, voters in Mississippi became the first to defeat a ballot initiative on the issue. On June 5, 2001, the Washington, D.C. city council became the first local legislative body to scrap limits imposed by referendum. And on February 1st of this year, Idaho became the first state to overturn term limits by legislative action.

In 1994, 59 percent of Idaho voters approved an initiative limiting terms for federal elected officials, state constitutional officers, members of the state legislature, local government officials, and school district officials. They were swayed, in part, by the term limits plank of the *Contract With America*, which served as that year's informal Republican Party platform. The John Birch Society and THE NEW AMERICAN, which are affiliated, sought to warn the American people about the serious flaws in both the *Contract* and the term-limits deception. Indeed, two years earlier, in our issue for September 21, 1992, Don Fotheringham, who for many years led the John Birch Society's "Preserve the Constitution" project, warned that "the pretext for the entire term limit issue is built upon

\* See "Term Limits Temptation" by George Detweiler (and the accompanying sidebars "James Madison: No Term Limits Champion" and "The Founding Fathers on Term Limits") in THE NEW AMERICAN for June 10, 1996. This article is available online at: [http://www.thenewamerican.com/focus/term\\_limits/index.htm](http://www.thenewamerican.com/focus/term_limits/index.htm)

sand and cannot deliver any of the promises of its promoters. **Term limitation tackles the symptom, not the disease.** The same voters who vote for liberals now will continue to vote for liberals regardless of the number of candidates or the number of terms they are allowed to serve."

In the wake of the elections, we cautioned in our issue for December 12, 1994 that term limits "amount to an assault on the U.S. Constitution," since they imply that "the Constitution's electoral procedures are inadequate, and that replacing old big spenders with young ones will somehow result in better and less costly government." And in a detailed analysis of the *Contract With America* published in our January 9, 1995 issue, William F. Jasper noted that "the Constitution already provides for term limits — every two years for House members and every six years for senators.... There is no need to throw out the good congressmen with the bad via term limits — and thus limit the franchise of the voters.... Merely changing the faces in Congress is no guarantee of good government."

**Positive Birch Influence**

When the Idaho state legislature voted against term limits earlier this year, it convincingly demonstrated that a minority of determined, organized Americans can bring about significant change for the better. The Idaho legislators who opposed term limits undoubtedly felt tremendous pressure from powerful and influential term limits advocates such as Idaho Governor Dirk Kempthorne (R), who threatened to veto the repeal bill should it pass. But because citizen activists, mostly members of the John Birch Society, educated and mobilized fellow Americans in many voting districts, these legislators fully recognized the changing public attitude.

Governor Kempthorne did indeed veto the bill to repeal on January 31st. Not to be deterred, however, state legislators resolutely overrode the veto by margins of 50 to 20 in the House and 26 to 8 in the Senate.

Don Fotheringham was for many years on the front lines of the term limits battle as well as the broader con-con battle. Having witnessed what informed Birchers in Idaho and elsewhere accomplished, he told us:

THE NEW AMERICAN, and the national chapters of the John Birch Society, have for many years opposed the calling of a modern constitutional convention, no matter how compelling the pretext. Moreover, the same organized effort has been directed against term limits. The result of this combined educational effort has paid off.

Over the years, a number of state legislators have also acknowledged the effects of the Birch Society's educational campaign. For instance, when Idaho rescinded its application for a new constitutional convention in 1999, state Representative John Tippets told us that "this probably would not have happened without the [Birch] Society," because "behind the scenes initially they are the ones that got the movement going. So I think they are the moving force behind this.... I think they are the ones that made it happen."

This groundwork paid off again this year, when Idaho voted down term limits. ■

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