

AN ANALYSIS OF ORIGINAL CONSTITUTIONAL
THEORY ON LEGISLATIVE ROTATION
AND ITS APPLICATION TO CURRENT
TRENDS IN CONGRESS

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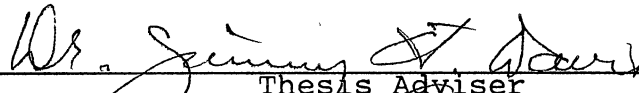
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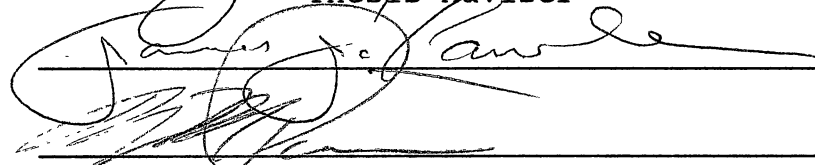
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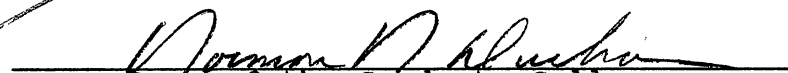
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CHAPTER I

INTRODUCTION

A movement is under way that will, if successful, redefine the fundamental principles of representation in the United States. It is prompted by a public opinion that expresses an unmistakable dissatisfaction with the performance and characteristics of the United States Congress (Struble and Jahre 1991). Combined with astoundingly high incumbent re-election rates, these two variables have resulted in a sense of genuine frustration held by the American people. Desiring change but doubting that Congress is able to heal itself, the public has taken the responsibility upon themselves. In populist fashion, the public has initiated mandatory change in the model of representation. The means to reform have been found most often in legislative term limitations. Automatic rotation measures have already been endorsed through referendums in Oklahoma, Colorado, and California as the voters of those states have restricted the re-eligibility of their state legislatures. The voters in Colorado, in fact, voted to limit the terms of their congressmen, the first such successful move in the country (although the constitutionality of the provision is being decided in

court). Talk of congressional term limitations has now become commonplace as proposals have been offered by several state legislatures, public protection organizations, and even special interest groups.

While public opinion has shown that three-fourths of adults support limiting the careers of their congressmen, the ramifications of such measures are not so clear (Copeland and Rausch 1991). Though many have tried, it is difficult to accurately predict the effects of congressional term limitations. This uncertainty is due in large part because they effect the relationships between the public and their representatives, between Congress and other institutions in government, and also between the members of Congress themselves. Some argue that term limitations are a simple remedy that is long overdue; a necessity to cure the ills of an institution. Others are offended by the bluntness of its instrument and by the thought of having their democratic choice automatically restricted.

To the student of constitutional politics, this debate is nothing short of stimulating. It has all of the aspects of the fundamental democratic issues that were debated in public forum during the drafting of the Constitution. It is a question that balances ideals and necessities, political theory and practical effects. Truly, it is an issue of constitutional importance. And for that reason, this study examines the original debate

over term limitations waged amongst the framers of the United States Constitution. An analysis of their political theories on rotation in Congress will allow the contemporary movement to be put into perspective.

Too often overlooked in the modern debate over congressional term limitations has been the reasoning employed by the founding fathers in their attempt to create an ideal model of government. Unlike studies that speculate the political ramifications of term limitations or others that debate whether their use is right or wrong, this study attempts to determine if the founding fathers provided an explanation for the circumstances that have motivated the current term limitation movement. Specifically, Federalist and Anti-federalist theory is searched for a resolution to the troubling paradox created by the inability of the public to rotate the membership of a Congress that they are so disgruntled with. It is the thesis of this study that, in fact, Federalist theory on congressional rotation can resolve the paradox. The closeness of the public with their own representatives created by RE-ELIGIBILITY, a relationship predicted by the Federalists, accounts for the reluctance of voters to replace incumbents despite their negative attitudes towards Congress.

Three individual components contribute to the construction of this study. Chapter Two is a study of the uses of term limitations in this country before the

Constitutional Convention. Automatic rotation provisions in early state constitutions and also in the Articles of Confederation are examined. This will establish the theoretical roots for the use of term limitations and also a background of the variety of their use. Chapter Three consists of an examination of Federalist and Anti-federalist political theory on rotation in Congress, which provides the bulk of this study. Theories on the necessity of term limitations are extracted from the original debate at the Constitutional Convention and during the battle for ratification. Opinions on matters such as rotation in office, social choice theory, competency in the electorate, accountability in representation, and corruption in government contribute to the building of the early theory on term limitations. Finally, Chapter Four completes the study with an application of the original debate to current trends in congressional rotation. It is determined if the founders had a realistic conceptualization of the system they created, and whether their theories are applicable to the contemporary constitutional debate. A conclusion searches for an answer to the modern paradox created by the public's inability to instigate change in a Congress they are disgruntled with, despite given the opportunity during each election.

Completion of this study will provide answers to several questions raised in the contemporary debate over

the necessity of automatic rotation in Congress. Establishing the theoretical roots of term limitations and citing examples of their early use will provide an historical background to current deliberations. Most importantly, examination of the original constitutional debate over congressional rotation will provide not only insight into the intentions of the framers, but also a theoretical framework in which to study the modern debate.

CHAPTER II

EARLY USE OF TERM LIMITATIONS IN AMERICA

Term limitations have recently been celebrated as an innovative tool in which to combat the evils of contemporary legislative bodies. Proponents argue that such measures are reforms desperately needed to correct current trends of sluggish representational turnover. Opponents are shocked by such proposals and find term limitations repugnant and insulting to America's democratic tradition. The debate continues over the speculated benefits and dangers of these "innovations."

Sometimes neglected in this debate is the history of the automatic rotation principle in this country. Unknown to many that are involved in the current debate, legislative term limitations enjoyed widespread use during this nation's formative years. Because numerous aspects of the representational model of government were still unknown at that time, such provisions were often used to systematically prevent the evils that were feared when men were placed in positions of authority. Term limitations were used in several state governments and also in Congress under the Articles of Confederation.

This chapter briefly examines the use of term

limitations in this country up to the Constitutional Convention in the summer of 1789. The goal is to establish the original philosophy behind the use of term limitations, thereby promulgating the reasoning that contributed to the constitutional debate. Initially, an examination of the theoretical roots that led to the implementation of term limitations is presented. To observe specific rotation provisions, an examination of the various uses of term limitations in the states follows. Finally, a study of congressional term limitations under the Articles of Confederation completes the pre-convention examination of the rotation principle. This chapter serves to provide a foundation of automatic rotation theory, and also to familiarize the reader with term limitation use prior to the Constitutional Convention.

Theoretical Roots

Early statesmen often debated in public forum the "science" of politics and the proper use of governmental power. Their arguments were composed of political history, past experience, and hypothetical ideals. Trying to pinpoint the primary source of term limitation theory from such a mosaic is a nearly impossible task. There are, however, logical themes that can be identified as contributors to an early American rotation principle. The theoretical roots of term limitations can be found in

the principles of the ancient polities, the experience of the colonists' and their ancestors with Parliament, and finally the colonists' own experience with legislative bodies in this country.

The more lettered scholars of the time often referred to the ancient polities and cited early republican principles when debating politics. Discussion of the necessity of rotation in public office was no different. There were, in fact, several experimentations with term limitations in the earliest models of government (Struble and Jahre 1991). In Athens, the Council of 500 served in annual rotation, as did Sparta's Board of Five Ephors. Until the first century B.C., the Roman republic rotated their tribunes, magistrates, and consuls by forbidding re-election after a one-year term. A second term as consul was allowed only after a ten-year layoff. There was also use of the rotation principle during the Italian Renaissance. For example, the inner circle of the republic of Venice was rotated annually. In Florence and the other republics of Tuscany, the highest officials were limited to a single term of only two months. Historians most often cite a desire to avoid stagnation in government as the general reason for rotation.

It was from this early political theory favoring rotation in public office that statesmen of this country molded their own ideals. Americans had an established

preference for representational legislatures, but the colonists and their nationalist descendents clearly remained cautious of abuses of power. Experience with an unconcerned Parliament had created skepticism in many Americans towards legislative bodies. Shortly after nationhood, dominant governing power settled in the state legislatures, prompting many to direct criticisms at these bodies. Thomas Jefferson wrote that "bodies of men as well as of individuals, are susceptible of the spirit of tyranny," (Adams 1980). Vesting power in collective bodies was, in itself, not a comprehensive safeguard against abuses of power. A fear of illegitimate use of governmental authority led to the conclusion that it would be futile to vest power in bodies of men without providing reliable means of control.

Early support of automatic rotation in this country has also been traced to the English radical Whigs who often voiced concern over the lack of control the voters held over Parliament.

The radical Whigs believed that the corrupting of the court was so great that even a member of Parliament of the greatest integrity should not be exposed to it for more than a year. Therefore, the reformers had made it their goal to prevent bribes by constantly changing the members of Parliament. (Adams 1980)

A vigorous turnover in the membership of Parliament would have kept that body close to the people, maintained its responsiveness, and prevented the evils associated with entrenchment of officials.

Another source of political theory that contributed to the support of term limitations has been identified as this country's own early republican idealism (Adams 1980). The fundamental principle of this ideology was legitimacy of government, to be achieved through consent by and participation of the public. Republican idealism held that rotation in public office was desired simply because it allowed many citizens to participate in government. This was premised by the belief that many people were qualified to serve in public office. Frequent turnover of personnel within government would stimulate a large pool of individuals able to serve the country or state in various capacities. Long-term officeholding would not only hinder the growth of that pool, but would ultimately shrink it.

The practical arguments in favor of automatic rotation were twofold. The first claimed term limitations were necessary to prevent concentration of power in individuals. There was a significant suspicion of professional officeholders and abuses of the public trust. "Eighteenth century radicals looked upon the desire for office as a disease which fed upon officeholding," (Jenson 1963). Term limitations were necessary to promote turnover, thereby avoiding power accumulation in individuals and the weaknesses of human nature.

The second argument in favor of term limitations stemmed from a desire to avoid an entrenchment of

factions in the legislative halls of America.

As a safeguard against factions entrenching themselves in Congress, the term of service was limited, at the obvious risk of penalizing experience. (Montross 1950)

Factionalism would eminently lead to tyranny by oligarchy, or in the least a sluggish, unresponsive legislative process. In this same vein, rotation would also prevent a ruling class of elites from forming. It was often argued that aristocratic factions could be avoided if elected officials were returned to the ranks of the people. Short terms and limits on re-eligibility would preclude an unwelcome aristocracy from forming.

The Use of Term Limitations in the States

The study of state governments is beneficial because they provide observable experimentation of various structures and provisions concerning the use of authoritative power. This is true for scholars of today as well as for politicians two centuries ago. Variations in state governments were as numerous as the states themselves. Automatic rotation provisions were common in early state governments and an examination reveals how the founders dealt with concerns related to turnover in public office.

State officials implemented term limitations for reasons similar to those established above. A related technique for dealing with entrenchment in government was the use of short legislative terms. Forcing

representatives to face their constituencies in frequent and periodic elections provided a latent check on power accumulation. During the colonial period, there had been a precedent set for annual elections of legislative assemblies. "Where annual elections end, there slavery begins," was the belief (Adams 1980).

After independence, all of the states originally imposed a one-year term on their representatives. The exception was South Carolina which allowed a two-year term. Early state senators and governors were also subject to periodic elections but often enjoyed somewhat longer terms. Table I, found on page 13, presents the various terms of office established in the original state constitutions.

Short terms of office did not satisfy the most ardent proponents of rotation. They argued that annual elections, of themselves, did not adequately check legislative entrenchment. Their logic was substantiated by the fact that terms of office as high as 19, 33, and even 50 years had been recorded in colonial assemblies (Adams 1980).

Power accumulation and faction entrenchment had not been controlled by short terms alone. To curb these trends, many state constitutions provided limits on re-election to public offices, especially those that were considered sources of power. More attention was directed to the offices of senator and governor than to the

TABLE I
 TERMS OF OFFICE FOR REPRESENTATIVES, SENATORS, AND
 GOVERNORS IN THE STATES AS STIPULATED
 IN ORIGINAL CONSTITUTIONS

	Representatives	Senators	Governors
New Hampshire	1	1	1
Massachusetts	1	1	1
Connecticut	1		1
Rhode Island	1		1
New York	1	4	3
Pennsylvania	1		1
Delaware	1	3	3
Maryland	1	5	1
Virginia	1	4	1
North Carolina	1	1	1
South Carolina	2	2	2
Georgia	1		1

Source: Adams, Willi Paul. The First American Constitutions. Chapel Hill: The University of North Carolina Press, 1980.

representatives of the lower house of the state assemblies.

Virginia's constitution was the first to contain restrictions on re-election. According to its constitution, a senator could not be re-elected until a four-year period had elapsed, and every year, one-fourth of the senate would be newly-elected. The governor of Virginia, after serving a one-year term, could be re-elected twice but then had to wait four years before running for the office again. Pennsylvania was the only state to restrict the re-election of members of the lower house. Its representatives served a one-year term with re-election possible for a total of three years in any seven-year period. Six states limited re-eligibility to the offices of sheriff, coroner, and governor. Three states, Massachusetts, New Hampshire, and South Carolina, possessed no rules for automatic rotation in public office. None of the constitutions provided for the recall of legislative or executive officials during their terms. Table II, on page 15, presents term limitations as established in the original state constitutions.

Table II reveals that term limitations were commonplace in the states immediately after nationhood. Because dominant governing power had settled in the lap of state governments at that time, the legitimacy of the rotation principle was clearly established.

TABLE II
 ROTATION IN OFFICE AS STIPULATED IN STATE
 CONSTITUTIONS FROM 1776 TO 1780

States	Representative	Senator	Governor
New England States	No rotation requirements		
New York		4yr. term; re-election possible; term of 1/4 of senators expires each yr.	
Pennsylvania	1 yr. term; re- election possible for a total of 3 yrs. within a 7yr. period		1 yr. term; 3 continuous terms in office re- election after 4yr. pause
Delaware		3yr. term; re-election after 3yr. pause; term of 1/3 of senators expires each yr.	3yr. term; re-election after 3yr. pause
Maryland			1yr. term; after 3 continuous terms in office re- election after 4yr. pause
Virginia		4yr. term; re-election after 4yr. pause; term of 1/4 of senators expires each yr.	1yr. term; after 3 continuous terms in office re- election after 4yr. pause

Source: Adams, Willi Paul. The First American Constitutions. Chapel Hill: University of North Carolina Press, 1980.

The Articles of Confederation

Term limitations became a variable in national politics upon ratification of the Articles of Confederation. The governing apparatus set up soon after independence reflected the suspicious ideology held by many Americans towards oppressive and unresponsive legislatures. The framers, with the atrocities incurred under the English Crown still very much on their minds, were careful not to yield too much authority to the new national government. In addition to very limited powers, the new model of government included a structural check on legislative entrenchment. This section examines the original congressional term limitation established under the Articles of Confederation and its effectiveness.

It is necessary to briefly examine the governing mechanism of the Continental Congresses that met prior to ratification of the Articles of Confederation in 1781. A study of its nature can contribute to the understanding of the rotation principle. These national assemblies were semi-representative legislative bodies. Delegates typically possessed a paper commission which certified their right to a seat in a particular Congress. The nature of the assignment reflected the fact that the delegate served at the pleasure of the selecting body, usually the state assembly.

Two aspects inherent in the delegate's assignments relate to this study of term limitations. The first is

the specified period of assignment to a particular session of Congress. Although commissions could be renewed, technically, these assignments were not open-ended. While they did not provide for rotation specifically, these commissions did reflect the ideal of the finite legislative term. The other important aspect was the direct accountability of the delegate to the assigning body. Delegates to Congress had a clearly defined mission to voice and protect the interests of the state. The combination of these two aspects established a representative relationship of limited nature in which there were close ties between the assigning body and the delegate.

The same reasoning that went into the structuring of term limitations in the state constitutions led to support of similar provisions in the construction of the Articles of Confederation. Most Americans favored the representational legislative model, but for various reasons were still skeptical of these bodies. To review, their suspicions stemmed from a distrust of professionalized politicians and the concentration of power which resulted. The other argument centered around the desire to prevent entrenchment of factions and an aristocracy. These political ideals led to implementation of very specific limitations on terms of offices in Congress under the Articles of Confederation.

Benjamin Franklin's sketch for the new national

government was one of the earliest models that called for congressional term limitations. Franklin's plan, drafted in 1775, included annual elections of delegates and automatic rotation of membership in Congress. Both principles were common in other proposals that followed Franklin's plan and "was thought to be a means of preventing jealousies," (Thorpe 1970). Franklin's plan is important because it became the primary source for the report given to Congress on July 12, 1776, by the committee appointed to prepare the Articles of Confederation. The committee's final report was eventually authored by John Dickinson of Pennsylvania.

The Dickinson plan provided the model of government debated until the Articles were ratified in 1781. Dickinson's plan established strict accountability of congressmen by reserving to each state the right to recall its delegates at any time within the year they were elected and to send new ones in their place. To ensure vigorous rotation in Congress, no person could be a delegate for more than three years in any six-year period. During ratification, the South Carolina delegation had offered an amendment which failed that would have increased the rotation provision to two years in any six (Thorpe 1970). Both of the original proposals from the Dickinson draft were eventually included in Article Five of the new Articles of Confederation.

For the convenient management of the general

interests of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No state shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years.... (Article 5, Articles of Confederation, 1781)

As a reflection of the framers' commitment to rotation, Article Nine provided that no person was allowed to serve as President of Congress for a term longer than one year in any three-year period. This would ensure that no one would acquire oppressive powers as head of the national government.

Accountability in representation was established by Article Five. Through the recall and rotation provisions, the delegates were forced to be responsive to the wills of their electorates, the state legislatures. This explains why many votes in Congress, while reflecting a state's interest, were often inconsistent with a delegate's personal political and economic views (Jenson 1963).

Several interesting anecdotes were recorded of the implementation of Article Five. It appears that application of the rotation principle was not as simple as expected, primarily due to a nonchalant attitude towards the term limitation. The stories reveal not only surprising behavior in Congress, but also the perverted

use of Article Five.

Samuel Osgood had stirred up such enmity in his efforts to save the country that he became the first delegate to be actually ousted on the grounds of having served three years since March 1, 1781. The members of his faction contested the decision to no avail, and on his way home the ex-member wrote to Gerry: 'Farewell all connection with public life. I am inexpressibly disgusted with it.' The ax fell next on the two Delaware delegates, James Tilton and Gunning Bedford, Jr. But when it came the turn of Howell and Ellery of Rhode Island, both fought back so furiously that the motion to unseat them lacked seven votes of carrying. Secretary Thomson mentioned that the debates 'were conducted with a good deal of warmth.' And James Monroe wrote on May 25th: 'I never saw more indecent conduct in any assembly before.' (Montross 1950)

Term limitations, while common in the states, were still a novelty in national politics. It would require time before they were accepted as part of the political environment. The tales continue, disclosing that enforcement was not automatic and was often motivated by personal political agendas.

In the spring of 1784 this provision was used as a weapon by every faction in Congress to get rid of troublesome opponents. David Howell, one of the last to be selected as a victim by the committee of investigation, reported on May 22nd to Governor Jabez Brown of Rhode Island: 'I have been in hot water for six or seven weeks, ever since business has been taken up in earnest. Thank God, we have hitherto carried every point. I have received two written challenges to fight duels; one from Col. Mercer, of Virginia, the other from Col. Spaight, of No. Carolina....I answered them that I meant to chastise any insults I might receive and laid their letters before Congress.' (Montross 1950)

Since the Articles of Confederation were not ratified until 1781, the term limitation provision did not take effect until 1784. In that first year, there

were a handful of delegates who became ineligible for re-election. According to one scholar, Article 5 would have been, for the most part, irrelevant to the makeup of Congress during these early years (Rakove 1979). Turnover was at such a high rate naturally, that implementation of Article Five was trivial. During the period from 1774 until 1783, a period encompassing the revolution and parts of the confederation era, there were 235 delegates who attended Congress for a minimum of four weeks during any one calendar year. Fifty-six delegates attended Congress for one year only, while another sixty-five attended Congress for two years. Fifty-three delegates attended Congress for three years. Thus:

fully three-quarters of the active wartime membership of Congress were present during each of three years or less. On the other hand, only thirty-one delegates, or one-eighth, served in Congress during each of five calendar years or more. By the end of 1776, more than half of those who attended Congress prior to the Declaration of Independence had left its chambers for good. (Rakove 1979)

There are several factors that contributed to a naturally high rate of turnover. Most members left Congress of their own accord for various reasons. A few delegates who had resisted the independence movement left in protest. Because the authority of the national government was limited, several delegates left Congress seeking more prominent positions in state governments. Still others had accepted military appointments and opted to leave Congress, while a few had left to join the

diplomatic corps abroad. A large number voluntarily left Congress to return home and care for pressing family or estate matters. Being a delegate to Congress meant travelling long distances and being away from home for long periods of time. During this era, politics was often a pastime rather than a primary career as service was a function of social status or civic responsibility.

It was far easier to put in one's required time at Congress then leave having learned the office was a mark of distinction but not a political objective worth pursuing in a serious way or for any length of time. So long as most delegates thought their attendance a concession to patriotism rather than the fulfillment of their ambitions, Congress would be condemned to muddling through to independence. (Rakove 1979)

Whatever the reason for leaving Congress, the aggregate effect was a naturally high rate of rotation in membership. "The members of Congress are so perpetually changing that it is of little use to give you their names," wrote R.H. Lee in a letter home in 1778 (Rakove 1979).

There is little argument that election competition or state legislative displeasure were major causes of rotation. According to eighteenth century political etiquette, "most delegates who were willing to retain their positions in Congress were not likely to be turned out of office," (Rakove 1979). Delegates who refused re-election far outnumbered those who lost their seats involuntarily. Indeed, states were grateful to find people to serve repeatedly. Delegates who served

multiple terms within the confinement of Article Five were not criticized for lusting after power or acquiring national interests.

Conclusion

This chapter has explored the theoretical background of term limitations and has examined their early use. The philosophical roots of term limitations were found in the examples of the ancient polities, the principles of the English radical Whigs, and this country's own experience with unresponsive governments. Rotation in office was desired for what it provided as well as what it prevented. Constant circulation of government officials would result in a surplus of competent civil servants from which creative ideas and enthusiastic service could be extracted. At the same time, rotation would prevent the concentration of power into the hands of individuals resulting from accumulated years in office. Additionally, the growth of factions in American politics could be slowed by preventing their entrenchment. These are a sample of the theoretical arguments that supported the use of term limitations during the early years of nationhood.

The principle of automatic rotation first took root in early state governments. This is significant because, at that time, state governments were the seats of power in the American model. The state's use of term

limitations established the familiarity of the rotation principle in this country, eventually legitimating such provisions. The acceptance of term limitations was confirmed by their inclusion in the remodeled national government under the Articles of Confederation.

Ironically, naturally high rates of turnover meant that the potential effects of congressional term limitations were never realized. Entrenchment of individuals and factions was avoided as a product of natural rotation, not necessarily because of the mandatory term limitations. But, regardless of the effectiveness of the rotation principle, the use of term limitations had become part of national politics.

CHAPTER III

THE ORIGINAL CONSTITUTIONAL DEBATE OVER THE NECESSITY OF TERM LIMITATIONS

Chapter Two established the commonality of term limitations in the pre-Constitution era. By 1787, the rotation principle had clearly become a variable in American politics. In light of their broad ideological base and extensive use at both the state and national level, a continuation of term limitations would be expected despite efforts to reform the national government. The republican idealism described in Chapter Two and the continued apprehension of several statesmen towards the creation of an overly strong national government predict continued use of this restraining mechanism in the new Constitution. Surprisingly, congressional term limitations were not written into the Constitution or worked into the intricate balance of powers.

This chapter reviews the Convention's consideration of term limitations, and examines the contending arguments for the use of automatic rotation in the restructured Congress. James Madison's notes on the federal Convention will serve as the record of the debates during the drafting of the Constitution.

Opposing theories over the necessity of term limitations will be extracted from the volatile ratification debates that followed the Convention. Completion of Chapter Three allows the contemporary term limitation debate to be placed within the original theoretical framework provided by the Federalists and Anti-federalists.

The Constitutional Convention of 1789

The debate that occurred when the Convention voted to remove term limitations from Congress must have been intense. The political elites re-evaluating the effectiveness of the model of national government were men of vehemently held opinions, and by excluding the rotation principle, they moved away from an established norm. According to the journal of James Madison, however, there was scarce debate concerning legislative term limitations at the Constitutional Convention.

Nonetheless, the Convention did not go without recognition of term limitations. Often overlooked in the debates at the Constitutional Convention is that the Virginia plan, proposed by Edmund Randolph, originally included legislative term limitations.

Resolved that the members of the first branch of the National Legislature ought to be elected by the people of the several States;...to be incapable of reelection for the space of _____ after the expiration of their term of service, and to be subject to recall. (Mr. Randolph's 4th Resolution, proposed May 29, 1787, in Convention; Madison, 1987)

Randolph's proposal was a reflection of the Articles of

Confederation's limit on congressional re-eligibility and provision for recall of delegates by the states.

Interestingly, the Virginia plan called for automatic rotation only in the lower house. The upper house of the national legislature was to provide stability in the new government and thus required longer tenure of its members. Ironically, early state constitutions had targeted the upper houses of their legislatures for use of term limitations. It was believed that political corruption lurked in the senates of the states because those bodies were generally more prestigious than their companion lower houses.

Randolph's plan for term limitations has received little attention in the literature relating to the Constitutional Convention. This is probably because the provision was soon deleted by the delegates. Few authors mention, let alone discuss, the fact that the Convention eliminated term limitations from the draft. Madison, himself, only mentioned the vote to exclude term limitations in nonchalant fashion.

On question moved by Mr. Pickney for striking out 'incapable of reelection into 1st branch of Nat. Legisl. for _____ years, and subject to recall' agd. to nem. con. (June 12 Madison, 1987)

There was no debate recorded by Madison on the issue, just record of the unanimous agreement. Because Madison's notes are generally thought to be the most meticulous and comprehensive record of the Convention, it is assumed that no worthy debate occurred as to the

point. In The Report of the Committee of the Whole On Mr. Randolph's Propositions, an updated version of the Virginia Plan presented the next day, there was no reference of the congressional term limitation. Quite simply, the automatic rotation principle had been abandoned by the political elites of America with seemingly little effort or concern.

The other major proposal of the Convention, the New Jersey Plan, called only for a revision of the Articles of Confederation. Adopted as proposed, the New Jersey Plan would have left intact the term limitations provided for under Article 5. The plan also proposed the election of a federal executive by the Congress, to consist of multiple persons who were to be ineligible for election a second time. The New Jersey Plan's call for a revision of the Articles of Confederation was soon abandoned as the Convention turned to the business of replacing them. Patterson's plan for continued congressional term limitations was expunged with the antiquated Articles.

For four months the Convention debated several delicate matters of American government. But, there was little other specific mention of congressional term limitations in Madison's journal. Late in the summer, there were a few last ditch efforts to breathe life back into the automatic rotation principle. On August 14, Elbridge Gerry read a resolution of the Legislature of Massachusetts:

passed before the Act of Congress recommending the Convention, in which her deputies were instructed not to depart from the rotation established in the 5th Art: of Confederation. (Madison 1987)

Again, there was no debate recorded as to the specific principle of automatic rotation. In this case, a state government was protecting its authoritative territory by showing caution of power concentration at the national level under the new plan.

On September 15, the last day of deliberations before the delegates put their signatures to the document, Gerry took the floor to read his personal list of grievances of the proposed Constitution. First among them was, "the duration and re-eligibility of the Senate," (Madison 1987). Gerry's late reservation, most surely held by other delegates as well, hinted at the intensity of the debates that were to follow over the Constitution's lack of a rotation provision.

While there was no debate provided in Madison's notes in which to evaluate the framers' views on term limitations specifically, there were a number of subjects tangent to the issue of rotation in office. For example, the Convention waged lively discussion on congressional term length, whether the focus of representation was to be the people or the states, and also the method for selection of congressmen. The most fundamental issues relevant to this study revolve around public choice and the competence of the electorate to make rational

decisions.

During the summer of 1787, there were hints of growing sentiment in favor of congressional re-eligibility. This was expressed in two arguments. First was the view that public choice was a sacrosanct matter. James Wilson of Pennsylvania, when discussing the age requirement of members of Congress, stated that he, "was against abridging the rights of election in any shape. It was the same thing whether this were done by disqualifying the objects of choice, or the persons chusing," (Madison 1987). The spirit of his argument reflected a respect for the public's choice and an unwillingness to tamper with it. According to this logic the public should have the right to choose whom they wished to represent them, regardless.

The second aspect of the growing re-eligibility argument involved the public's ability to recognize and remove unfavorable legislators. In a debate over term length in the Senate, Roger Sherman of Connecticut stated that, "if they did their duty well, they would be re-elected. And if they acted amiss, an earlier opportunity should be allowed for getting rid of them," (Madison 1987). Gouverneur Morris of Pennsylvania, in debating whether elected officials should be eligible for other positions in government after a specified layoff period said:

Why should we not avail ourselves of their services if the people chuse to give them their confidence.

There can be little danger of corruption either among the people or the Legislatures who are to be the electors. If they say, we see their merits we honor the men, we chuse to renew our confidence in them, have they not a right to give them a preference; and can they be properly abridged to it? (Madison 1987)

This logic, likewise, supported the public's right to retain officials they favored. A clearer debate of this re-eligibility ideal is found in the writings of the Federalists' and Anti-federalists' during the struggle for ratification after the Convention.

The lack of specific debate on the automatic rotation issue pesters students of the Convention. The question of why congressional term limitations, by then an established norm, were not included in the Constitution remains unsatisfactorily answered today. But rather than trying to construct a debate where one does not exist, an attempt will be made to determine the reasons for the Convention's deviation from the rotation principle. From the study thus far, explanations for the abandonment can only be speculated.

The term limitations proposed in the Virginia Plan may simply have been a blind adoption of a provision from the Articles of Confederation. After more indepth consideration by the delegates, (possibly outside of the assembly house in a more informal atmosphere, which would explain the lack of Madison's documentation), such provisions were deserted. One scholar offered the argument that, "No doubt, the mandatory rotation had been

discredited somewhat by association with the Confederation," (Struble 1979).

Another explanation of the deviation from the rotation principle centered around an ideological awakening. It has been argued that term limitations:

clearly reflected the Americans' early commitment to the republican principle of rotation in office, and in that sense may also have been a mark of the naivete with which they initially weighed the merits of experience in government against the dangers of entrenched powers. (Rakove 1979)

There was a realization by many scholars and politicians that congressional turnover came at the expense of experience and expertise. Both the recall and rotation provisions in Article Five, "had deprived Congress of much experience, and it was agreed that no such provision should be embodied in the new plan," (Thorpe 1970, vol.I). James Madison, considered to possess one of the sharpest minds of the time and to be the Father of the Constitution, himself had exhausted his congressional eligibility under the Articles of Confederation and was forced to withdraw his services.

Yet another explanation of the lack of term limitations in the Constitution can be drawn from the high rate of natural rotation experienced in the Continental Congresses. Less than one-fourth of the membership of Congress had been effected by the term limitation, leaving its necessity in question (Rakove 1979). The rotation principle had taken care of itself, leaving no need of a structural provision in the new

model.

These are possible explanations of why the Convention abandoned congressional term limitations. Because of no recorded debates over this issue, political history must be speculated. Luckily, the post-convention debate provided much more colorful and specific reasoning of the nature of term limitations.

The Anti-Federalists' Stand

The term "Anti-federalists" traditionally refers to a group of politicians who held a common task, that being to expose the weaknesses and flaws of the Constitution. Those concerned with the Constitution's lack of term limitations, however, held views from both ends of the federal question. Proponents of term limitations included Thomas Jefferson as well as Richard Henry Lee. Therefore, not everyone who was a proponent of term limitations was against the Constitution or could be labeled an Anti-federalist. Adding to this confusion was the lack of organized effort and the diversity of reasoning behind the arguments of the Anti-federalists. Because it is an umbrella term, it is sometimes difficult to aggregate their arguments into a single Anti-federalist platform. On the issue of rotation in Congress, however, there were similarities in their logic. For the purpose of this study, the "Anti-federalist" stand on rotation in Congress will be

presented as a cohesive argument against the lack of term limitations in the Constitution.

A common ingredient of the Anti-federalists' logic was a belief that rotation of public officials was good in itself. Rotation was a necessary criteria of liberal government. In that aspect, Anti-federalist theory was very similar to that of the early proponents of term limitations in the states and under the Articles of Confederation. Both theories held rotation as a political ideal. To defend that ideal, the Anti-federalists relied on reasoning that was theoretical, focusing on potential dangers and nebulous benefits.

The Anti-federalists considered term limitations a necessity because of their belief in a naturally occurring entrenchment of elected officials. For example, An Officer of the Late Continental Army (William Findley) argued that the lack of a rotation provision would threaten liberty because, "great men may and probably will be continued in office during their lives," (Storing 1981). Inevitably, politicians would desire to remain in office for long tenures, and re-eligibility provided the means to do so. Charles Turner proclaimed in the Massachusetts ratifying debates:

I think it is a genuine power for Congress to perpetuate themselves--a power that cannot be unexceptionably exercised in any case whatever: --Knowing the numerous arts, that designing men are prone to, to secure their election, and perpetuate themselves, it is my hearty wish that a rotation may be provided for. (Storing 1981)

The Anti-federalists warned of the seductive lure that power had on human nature. They argued that once a man was exposed to a position of authority such as a seat in Congress, he would hesitate to ever forfeit it. Centinel argued that "...as there is no exclusion by rotation, they may be continued for life, which, from their extensive means of influence, would follow of course," (Storing 1981). For the Anti-federalists, entrenchment of politicians was a matter of fact.

Anti-federalist theory was premised by these two elemental "truths": that rotation of government officials was good in itself, and that men would inevitably entrench themselves in public office. If rotation of public officials was the ideal, then term limitations were the mode of attainment. From that foundation, their writings demanding automatic rotation in Congress naturally categorized themselves into two sets. On one hand were those that publicized the benefits to society that rotation accrued. The others warned of the dangers it avoided.

One benefit derived from frequent rotation in Congress was the circulation of good men in and out of office. Brutus wrote:

A farther benefit would be derived from such an arrangement; it would give opportunity to bring forward a greater number of men to serve their country, and would return those, who has served to their state, and afford them the advantage of becoming better acquainted with the condition and politics of their constituents. (Storing 1981)

Rotation would create a pool of qualified men able to serve in various public capacities. It would also increase the opportunity to serve in Congress for more people. In a speech at the ratification convention in New York, Melancton Smith debated that entrenchment of an elite class would deprive others, equally qualified but less influential, from participation in government.

It is a circumstance strongly in favor of rotation, that it will have a tendency to diffuse a more general spirit of emulation, and to bring forward into office the genius and abilities of the continent --The ambition of gaining the qualifications necessary to govern, will be in some proportion to the chance of success. If the office is to be perpetually confined to a few, other men of equal talents and virtue, but not possessed of so extensive an influence, may be discouraged from aspiring to it. The more perfectly we are versed in the political science, the more firmly will the happy principles of republicanism be supported. The true policy of constitutions will be to increase the information of the country, and to disseminate the knowledge of government as universally as possible. If this be done, we shall have, in any dangerous emergency, a numerous body of enlightened citizens, ready for the call of their country. (Storing 1981)

Rotation would open the doors of government service to more Americans, resulting in a larger governing class.

A related benefit gained through constant turnover of elected officials, the Anti-federalists argued, was that knowledge of government affairs would be spread throughout the public. "To produce attention, activity, and a diffusion of knowledge in the community, we ought to establish among others the principle of rotation," argued the Federal Farmer (Storing 1981). Exposing more

Americans to the governing process logically resulted in more Americans being conscious of public affairs.

Ultimately, rotation would inform the electorate and allow them to intelligently monitor government actions.

The Federal Farmer continued:

By a change of legislators, as often as circumstances will permit, political knowledge is diffused more extensively among the people, and the attention of the electors and the elected more constantly kept alive; circumstances of infinite importance in a free country. (Storing 1981)

For a democracy to be effective required not only that the public be active, but that they also be informed. Rational public choice was impossible without information or political knowledge. This was true whether the public was selecting someone to represent their views in Congress, or whether they were evaluating the performance of an incumbent at election time.

The Anti-federalists put equal effort into publicizing the dangerous effects of the Constitution's lack of congressional term limitations. These arguments sometimes resembled propaganda campaigns in their attempt to create fear of the new Congress and to build public sentiment against the Constitution.

Many Anti-federalists were wary of the effects that factions had on the governmental process. Factions resulted in decreased accountability, both of individual elected officials to their constituencies and of Congress to the public. Federal Farmer, demanding both a recall and rotation provision, stressed:

I repeat it, it is interested combinations and factions we are particularly to guard against in the federal government, and all the rational means that can be put into the hands of the people to prevent them, ought to be provided and furnished for them. (Storing 1981)

The faction to be feared most was an aristocracy.

With no rotation provision, an elite group of men, using the influence of their positions, would entrench themselves and their friends in lucrative positions.

Brutus argued:

A rotation in the senate, would also in my opinion be of great use. It is probable that senators once chosen for a state will, as the system now stands, continue in office for life. The office will be honorable if not lucrative. The persons who occupy it will probably wish to continue in it, and therefore use all their influence and that of their friends to continue in office. Their friends will be numerous and powerful, for they will have it in their power to confer great favors; besides it will before long be considered as disgraceful not to be re-elected. It will therefore be considered as a matter of delicacy to the character of the senator not to return him again. Every body acquainted with public affairs knows how difficult it is to remove from office a person who has long been in it. It is seldom done except in cases of gross misconduct. It is rare that want of competent ability procures it. (Storing 1981)

A related argument raised against the Constitution's lack of a rotation provision was that long congressional careers would subject elected officials to various types of corruption and bribery. Such avarice went hand in hand with the entrenchment of an aristocracy. A

Columbian Patriot wrote:

There is no provision for a rotation, nor any thing to prevent the perpetuity of office in the same hands for life; which by a little well-timed bribery, will probably be done, to the exclusion of

men of the best abilities from their share in the offices of government. By this neglect we lose advantages of that check to the overbearing insolence of office, which by rendering him ineligible at certain periods, keeps the mind of man in equilibrio, and teaches him the feelings of the governed, and better qualifies him to govern in his turn. (Storing 1981)

The longer a person served in Congress, the more corruption he would be exposed to or have opportunity to engage in.

The basic chord struck upon most often by the Anti-federalists was the question of accountability in government. Their argument was simply that to keep the actions of government consistent with the views of the people, Congress must be kept representative of the people. Frequent rotation of Congress ensured that the membership would not be long removed from public status. From the essays of Brutus:

But still it is of equal importance that they should not be so long in office as to be likely to forget the hand that formed them, or be insensible of their interests. Men long in office are very apt to feel themselves independent to form and pursue interests separate from those who appointed them....For it is to be remembered that there is to be a federal city, and the inhabitants of it will be the great and mighty of the earth. (Storing 1981)

The aggregated effect of entrenched representatives, factionalism, and corruption in government, was unaccountability. Each branch of the Anti-federalist's argument furthered the distance between the elected official and his electors. Samuel Bryant wrote in a Pennsylvania newspaper:

That strongest of all checks upon the conduct of administration, responsibility to the people, will not exist in this government. The permanency of the appointments, of senators and representatives, and the controul the Congress has over their election, will place them independent of the sentiments and resentment of the people, and the administration having a greater interest in the government than in the community, there will be no consideration to restrain them from oppression and tyranny. In the government of this state, under the old confederation, the members of the legislature are taken from among the people, and their interests and welfare are so inseparably connected with those of their constituents, that they can derive no advantage from oppressive laws and taxes, for they would suffer in common with their fellow citizens; would participate in the burdens they impose on the community, as they must return to the common land, after a short period; and notwithstanding every exertion of influence, every means of corruption, a necessary rotation excludes them from permanency in the legislature. (Storing 1981)

To maintain accountability in government, the individual voices of Congress must be those of the constituencies, not professional politicians. To attain that ideal, representatives must come from and return to the public, not an elite ruling class.

Many of the Anti-federalists' concerns were aimed at the Senate in particular. The six-year term of office raised worries that this body would have aristocratic tendencies. An elite ruling class would find a safe haven in the upper house away from frequent elections, thereby opening the door to all of the evils expressed in the Anti-federalists' arguments.

An attempt has been made to construct a concerted Anti-federalist stand against the Constitution's lack of a congressional term limitation. One point that stands

out is the similarity between the republican idealism used to promote term limitations in the states and under the Articles of Confederation, and the reasoning applied by the critics of the Constitution. This logically makes Anti-federalist theory the next generation of the rotation principle ancestry. The similarities between the two schools are not surprising considering that several of the politicians involved in the ratification debates were also involved in the earlier deliberations that established both state and national governments.

The Federalists' Reply

Discussion of a "Federalist" theory on rotation in Congress is simplified by the concerted effort of their argument. Writing under the pseudonym of Publius; Alexander Hamilton, John Jay, and James Madison provided a detailed defense of the Constitution during the ratification debates. Because of the comprehensiveness of their work, the Federalist Papers serve as the primary source of the Federalists' reply to the criticisms raised by the Anti-federalists over the Constitution's lack of provisional rotation in Congress.

The creation of a workable form of republican government presented an inherent paradox to the framers at the Constitutional Convention. Tenets of liberal democracy required that the new government be wholly dependent on the people. This meant that government had

to be responsive to the public will. But yet, it was a goal of the framers to provide long-term stability for the political system. The Federalists were aware of the tension that existed between these two ideals. Madison expressed the difficulty of the situation:

The genius of republican liberty seems to demand on one side not only that all power should be derived from the people, but that those entrusted with it should be kept in dependence on the people by a short duration of their appointments; and that even during this short period the trust should not be placed in a few, but in a number of hands. Stability, on the contrary, requires that the hands in which power is lodged should continue for a length of time in the same. A frequent change of men will result from a frequent return of elections; and a frequent change of measure from a frequent change of men: whilst energy in government requires not only a certain duration of power, but the execution of it by a single hand. (Hamilton, Jay and Madison 1961, 37)

The Federalists' resolution of the paradox was to establish dependency on the people through periodic elections. Stability, on the other hand, was to be provided through governmental careers of adequate length. From this logic, a Federalist rejection of term limitations can be extracted.

Unlike the Anti-federalists, the Federalists did not hold rotation in Congress to be a fundamental good in itself. In fact, they argued that constant turnover deprived Congress of valuable qualities. Nor did Federalist theory consider term limitations a necessary provision to ensure government accountability. To the contrary, it was argued that the issues raised by the

Anti-federalists were adequately kept in balance by the nature of the system. For the Federalists, the high rate of rotation experienced under the Articles of Confederation had proved term limitations of little worth. Consequently, where the Anti-federalists saw a need for term limitations, the Federalists were willing to rely on the public to provide natural rotation.

The primary task of the Federalists' was to defend the Constitution's lack of term limitations by establishing that there were, in fact, high levels of accountability inherent in the system. Madison provided the premise from which the Federalists' arguments were based:

we may define a republic to be...a government which derives all its powers directly or indirectly from the great body of the people and is administered by persons holding their offices during pleasure for a limited time period, or during good behavior.
(Hamilton, Jay and Madison 1961, 39)

In this definition, Madison established the two principles which made Congress accountable to the people without the use of term limitations. First, argued the Federalists, finite legislative terms would periodically force members of Congress before their electors. Members would not have permanent appointments so that they could act on their own will. Second, congressmen held their positions at the pleasure of the people. These two principles combined, provided enough accountability to make term limitations unnecessary. In a discussion of term length, Madison explained:

As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured. (Hamilton, Jay and Madison 1961, 52)

Elections, with the allowance of re-eligibility, provided accountability through public evaluation of performance. Because they depended on a positive evaluation from the public to gain re-election, congressmen would have to perform their duties to the approval of their electors.

All these securities, however, would be found very insufficient without the restraint of frequent elections. Hence...the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it. (Hamilton, Jay and Madison 1961, 57)

Members of Congress, if they wished to be returned to their positions, would be forced to account for their actions as representatives. Madison reasoned:

they can make no law which will not have its full operation on themselves and their friends, as well as on the great masses of society....Such will be the relation between the House of Representatives and their constituents. Duty, gratitude, interest, ambition itself, are the cords by which they will be bound to fidelity and sympathy with the great mass of the people. (Hamilton, Jay and Madison 1961, 57)

The Federalists argued that re-eligibility would actually strengthen the ties between the Congress and the public, moreso than under the rotation principle of the Articles of Confederation.

[the delegates to the existing Congress] are elected annually, it is true; but their re-election is considered by the legislative assemblies almost as a matter of course. The election of the representatives by the people would not be governed by the same principle. (Hamilton, Jay and Madison 1961, 53)

The Federalists believed the people would be more critical of their elected officials than the state assemblies had been under the Articles of Confederation. This would result in a Congress that was more responsive to the public will.

Under Federalist theory, the public, not term limitations, was to be the safeguard of their own liberty. Through the evaluation and re-election process, the people possessed the ultimate authority. Instead of term limitations, "a remedy must be obtained from the people, who can, by the election of more faithful representatives, annul the acts of the usurpers," (Hamilton, Jay and Madison 1961, 44). The public could replace only the unwanted members of Congress, instead of relying on wholesale exclusion, which would bluntly throw out the good with the bad. Madison pointed out that the system of checks and balances was merely an auxiliary precaution against tyranny: "A dependence on the people is, no doubt the primary control on the government,"

(Hamilton, Jay and Madison 1961, 51).

Vesting such responsibility in the public must have been precluded by a faith in their ability to distinguish between good and evil representatives, and then to have the ability to remove the undesirables. This required that the American people be attentive to public affairs and participate in their provided role. The Federalists maintained enough confidence in the public, and believed in the competence of the electorate to cast them in this role. "The citizens of America have too much discernment to be argued into anarchy," wrote Hamilton (Hamilton, Jay and Madison 1961, 26). An intelligent electorate could monitor the performance of their representative over the duration of his term and then determine if re-election was desired. In relation to the office of the presidency, Hamilton argued:

With a positive duration of considerable extent, I connect the circumstances of re-eligibility. The first is necessary to give the officer himself the inclination and the resolution to act his part well, and to the community time and leisure to observe the tendency of his measures, and thence to form an experimental estimate of their merits. The last is necessary to enable the people, when they see reason to approve of his conduct, to continue him in the station in order to prolong the utility of his talents and virtues, and to secure to the government the advantage of permanency in a wise system of administration. (Hamilton, Jay and Madison 1961, 72)

Within Federalist theory, good men should remain eligible for public service as long as their constituency was satisfied with their performance.

Not only did the Federalists argue for re-eligibility, but they also argued specifically against the use of term limitations. They believed that automatic rotation deprived Congress of valuable resources. Only through a long tenure could a representative gain familiarity with the political environment and grasp knowledge of the governing process. Madison wrote:

Some portion of this knowledge may, no doubt, be acquired in a man's closet; but some of it also can only be derived from public sources of information; and all of it will be acquired to best effect by a practical attention to the subject during the period of actual service in the legislature. (Hamilton, Jay and Madison 1961, 53)

Constant rotation of membership would deny Congress of essential experience needed to solve the problems faced by a growing nation. Thus, term limitations drained Congress of both the wisdom of its members and the authority of its institution.

An additional argument against automatic turnover in Congress had to do with policy implications. The Federalists often defended congressional re-eligibility and the six-year term of the Senate on the necessity of maintaining stability of policy. They warned of the inconsistent legislation that would emanate from a Congress in constant rotation, "An irregular and mutable legislation is not more an evil in itself than it is odious to the people," (Hamilton, Jay and Madison 1961, 37). Laws that were destined to be continually altered

by new members were of little value. Madison reiterated:

The internal effects of a mutable policy are still more calamitous. It poisons the blessings of liberty itself. It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed? (Hamilton, Jay and Madison 1961, 62)

By allowing congressmen to have longer careers, policy would not be subject to re-evaluation or new interpretation every time membership rotated.

Policy longevity was crucial in the arena of foreign affairs as well. Mutable policy, "forfeits the respect and confidence of other nations, and all advantages connected with national character," (Hamilton, Jay and Madison 1961, 62). In a period when the United States was trying to establish legitimacy in the eyes of the world, policy consistency was essential. The country could not present a new face to the world everytime Congress experienced mass rotation.

Constant turnover in Congress would also naturally result in an increased role of special interests. "Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising, and the moneyed few," (Hamilton, Jay and Madison 1961, 62). Under the restriction of term limitations, special interests would always outlive any congressional career.

Inexperienced congressmen, they argued, would nievely be led astray by these calculating interests.

One of the most eloquent defenses of re-eligibility in public office was Hamilton's explanation to the people of the lack of term limitation on the Presidency. The logic was similar to the theory applied to the Congress, but its effectiveness warrants mentioning. Hamilton first went about the task of devaluing the argument that rotation was good in itself. He reasoned that, "one ill effect of exclusion would be a dimunation of the inducements to good behavior," (Hamilton, Jay and Madison 1961, 72). He argued that the strongest incentive to good behavior in office was the opportunity to retain the position. A second ill effect of term limitations was "depriving the community of the advantage of the experience gained...in the exercise of his office." Experience in public office was desired, particularly in times of crisis. Term limitations ensured that a novice would always be at the helm. Hamilton's final argument focused on the instability in the administration of government that would be brought about by automatic rotation. Re-eligibility would establish the independence of the official, in the case of the President, from the suppression of other branches. This argument, extended to the Congress, would posit that the most vigorous representation would result only by the independence of the legislature from the influence of the

executive or judiciary.

A Federalist theory on the necessity of term limitations has been extracted from their debate concerning rotation in Congress. Ultimately, the Federalists were willing to rely on natural forces of rotation to achieve ideal representation. They were clearly against forcing turnover in the membership of Congress as it depreciated the capabilities of that body. In fact, the Federalists argued that some amount of lengthy congressional service was not only natural, but healthy and to be desired. As a result, Federalist theory replaced term limitations in Congress with periodic elections and re-eligibility.

Summary

The Federalists' theory on congressional rotation differed from that of the Anti-federalists in an elemental way. The Anti-federalists clung to their idealism on this issue, possessing a paranoia over abuses in government. Their arguments reflected a sense of uncertainty about the uses of governmental power, and therefore demanded all means to control it. The Federalists' reasoning was based on the experience of the past. Their logic proceeded from the assumption that the natural turnover experienced under the Articles of Confederation had cured Congress of most of the concerns raised by the Anti-federalists. The Federalists,

therefore, were content with natural rotation provided through retirement and elections.

According to the Anti-federalists, term limitations were necessary to maintain accountability of elected officials. For the Federalists, the question of accountability of government was solved through the establishment of finite terms, periodic elections, and re-eligibility. Bad effects in the Congress were eliminated by public judgment, not wholesale expulsion of membership.

Everything beyond this must be left to the prudence and firmness of the people; who, as they will hold the scales in their own hands, it is to be hoped will always take care to preserve the constitutional equilibrium. (Hamilton, Jay and Madison 1961, 32)

By this logic, the Federalists replaced term limitations with periodic elections and re-eligibility.

The original constitutional debate differed in one other elemental way. The Anti-federalists believed vigorous rotation in Congress was good in itself. Automatic rotation was necessary to attain the most effective representation. The Federalists did not agree that vigorous, wholesale rotation was necessarily good. In fact, constant turnover of membership was a hindrance to effective representation. Instead, the Federalists favored stability in administration of government and longevity of ideas. Thus, not only was some long-term congressional service natural, it was desired. Only through accumulated service, could expertise in the art

of public affairs be developed.

A few of the members...will, by frequent reelections, become members of long standing; will be thoroughly masters of the public business...The greater the portion of new members and the less the information of the bulk of the members, the more apt will they be to fall into the snares that may be laid for them. (Hamilton, Jay and Madison 1961, 53)

Natural forces of rotation and the expelling of undesirable representation through elections would result in the healthiest and ablest Congress.

Whichever side won the battle over rotation theory of Congress is indeterminate. The Federalists, though, eventually won the war over ratification of the Constitution. Thus, it is within their model that the last one-hundred and two Congresses have existed and evolved. Examination of the history of congressional careers will reveal whose theory on rotation was most accurate, the Federalists or Anti-federalists. A question that has just been re-opened by the current term limitation movement.

CHAPTER IV
AN ANALYSIS OF TRENDS IN
CONGRESSIONAL ROTATION

The founding fathers are often credited for having keen insight into the forces that shaped government. It is now time to determine if that intuition extended to the debate on congressional rotation and the necessity of term limitations. It has been shown that the original constitutional debate was split along very elemental lines. The Anti-federalists believed rotation of representation to be an ideal and, thus, considered term limitations necessary. For them, automatic rotation was the safeguard of liberty. Quite to the contrary, the Federalists warned of the restrictive nature of term limitations. For the Federalists, some amount of long-term service was both natural and valuable. While one logic stressed the dangers of long tenures, the other pointed out the weakness caused by short tenures. It remains to be determined which camp held the most foretelling vision.

This chapter examines trends in congressional rotation throughout the history of the Constitution. First, the motivations and characteristics of the recent movement to implement term limitations on Congress are examined within the framework of the original

Constitutional debate. Next, a study of congressional rotation as defined through techniques of modern political science provides a perspective in which to apply the early theory. This is followed by a review of the political science literature that has attempted to explain changes in congressional tenure over time. Finally, critical issues of the original constitutional debate are re-examined in light of both the history of congressional rotation and certain aspects of the contemporary term limitation movement. Upon completion of this exercise, the value and applicability of the Federalist's and Anti-federalist's theories to contemporary issues of rotation will have been established.

Characteristics of the Contemporary Movement

In a movement similar to the campaign of the Anti-federalists two-hundred years earlier, several politicians, scholars, and concerned citizens have called for the employment of term limitations across the nation. At the root of the current crusade is a frustration with modern legislative bodies. In Congress, rising incumbent re-election rates and sluggish rotation of membership have agitated an already declining public opinion of that body. In the recent past, an average of sixty-four percent of adults expressed a strong dissatisfaction with the performance of Congress (Struble and Jahre 1991). It

has been argued that the professionalization of congressional service is an aggravating circumstance that demands remedy by term limitations. Recent polls show that as many as three-fourths of adults support the idea of term limitations on Congress (Copeland and Rausch 1991).

Is this an endorsement of Anti-federalist theory? Perhaps it is in part. The belief that term limitations are a expeditious and simple cure to certain ills of legislative bodies is similar. But underneath the common ideal of legislative rotation, certain aspects of the modern movement and the motivation behind it differ from those of the Anti-federalists.

The contemporary trend has several characteristics of note. In most of the states, term limitations were originally proposed by citizen initiatives. Of the three states that have implemented term limitations on their legislatures, (Oklahoma, Colorado, and California) all have been through the mechanism of referendum elections. Therefore, the entire process has bypassed the legislative bodies themselves. This is not surprising since legislators would not be expected to support the termination of their careers. In contrast though, early support of term limitations came from within legislative bodies. It was the politicians themselves that demanded automatic rotation in Congress.

Although the term limitation movement has been

promoted under the banner of reform, it has a peculiar partisan flavor to it. Republican candidates and party organizations have been significantly more supportive of term limitations than their Democratic counterparts. On the national level, it is the Republican Party that stands to benefit most from limiting the number of years that a congressman can serve. Republicans have agonized under Democratic control of Congress in recent decades. Their efforts to reverse this trend through the polls have been hampered by slow rotation and high incumbency re-election rates. Political scientist Morris Fiorina determined that if re-election rates had not increased and the number of marginal districts had not declined, Republicans likely would have taken control of the House five times in the past quarter century -- 1966, 1968, 1972, 1980, and 1984 (Kesler 1990). However, decreased election competition has decreased the predictability of partisan seat swings.

Clearly, the Republican Party has motive to restrict Democratic entrenchment in Congress through the use of term limitations. In 1988, the Republican Party made term limitations part of its official platform. In their most public endorsement, Republican President George Bush advocated congressional term limitations in his 1991 State of the Union Address. At present, the term limitation movement is synonymous with the Republican Party's agenda.

The original proponents of term limitations desired their use as a structural check on elected officials. The Anti-federalists argued that automatic rotation would make Congress more accountable as an institution and result in a higher quality of representation. In contrast, modern proponents of term limitations appear to have selfish motives. That is, those promoting term limitations today clearly have something to gain by their use. The Republican Party reasoned that term limitations would combat Democratic control of Congress and also make congressional races more competitive, both of which are in their interest. While championed under the banner of necessary reform for a degenerating Congress, term limitations, in this instance, have been promoted for clearly different reasons.

Tracking Congressional Rotation

While this study has emphasized both the founding and contemporary support of term limitations, the value placed on congressional rotation has varied over time (Struble 1979). During the period of early nationhood, there was significant emphasis placed on rotation in Congress, whether provided by structural provision or of natural occurrence. Both the Federalist and Anti-federalist theories described in this thesis supported rotation, only at different levels and through different means.

Change in this ideal occurred during the administration of President Andrew Jackson when the spoils system was first extended to the federal bureaucracy. Rotation was still idealized, but it assumed a different role. Jackson established the practice of wholesale turnover in personnel upon the inauguration of a new administration. The mentality of public service had begun to change. Struble argued that:

the idea that federal offices were spoils to be spread among the party faithful had a significant effect not only on appointive places, but also on nomination for elective office. (Struble 1979)

Strategic withdrawal among incumbents during the nomination process was used to pass congressional seats to other members of the party. Rotation, as described by Struble, was provided within the party apparatus rather than the electoral process.

The ideal of rotation was further altered during the post-Civil War era. Basic social changes such as an increased cosmopolitan lifestyle and the growth of a business class resulted in more value being placed on professionalism in the workplace. Eventually, this new ideal reached the Congress where emphasis on rotation was replaced with a desire for legislative professionalism. Gradually, careerism became the norm as longer tenure was required to hone the required political skills. It took until the turn of the century for the principle of congressional rotation to completely slip into obscurity.

But since that time, service in Congress has been defined in terms of individual careers.

The variance in social value placed on rotation is clearly reflected in the evolution of congressional careers. Early careers in Congress were indeed short by today's standards. Service in Congress averaged only between two and three terms throughout the nineteenth century (Polsby 1968). It has been argued that there was no professional class of legislators through the nineteenth and early part of the twentieth centuries (Kesler 1990). Today, the figures have doubled. The average House career is well over five terms as a congressman can expect to spend nearly eleven years in office. The average length of service in the Senate is slightly less, but still above ten years. Figure 1, found in Appendix A, traces the increasing length of congressional careers through the first two centuries.

As can be deduced from Figure 1, there has been a near steady increase in length of congressional service from the beginning. The post-Civil War era served as the fulcrum towards a continuous increase in length of congressional service. Today's congressional careers rival those of Supreme Court Justices in terms of longevity. Since World War II, Justices, who enjoy lifetime appointments, have averaged 10.9 years on the highest bench (Struble 1979).

Inversely related to the increased tenure is the

dramatic decrease in the proportion of first-time members in each Congress. In the eighteenth and nineteenth centuries, the proportion of new members in Congress averaged forty to fifty-percent after every election (Polsby 1979). The twentieth century has witnessed the freshman percentage steadily decrease to the present rate which hovers near ten-percent. These numbers reflect the clearest trend in congressional turnover. Without doubt, rotation is on the decline and is at an all-time low. Figure 2, found in Appendix B, traces the decreasing freshman membership in Congress.

The entrenchment of Congress is well documented and cannot be mistaken. Clearly, today's congressmen enjoy much longer terms of service than did their legislative ancestors. Modern congressional rotation can be labeled sluggish at best.

The Anti-federalists were accurate in their prediction of congressional entrenchment. But, it must be remembered, the Federalists desired some long-term service, arguing that it was both natural and valuable. Present levels of rotation are "natural," having occurred without the restriction of term limitations. But is ten-percent turnover of membership after each election what the founders had in mind? Political scientists have been intrigued by the mystery of these trends and offer several explanations for their cause.

Struble put forth the change in value placed on

rotation, mentioned above, as the impetus to the decrease in congressional turnover (Struble 1979). This conclusion led to the Theory of Withdrawals. Strategic withdrawal of incumbents during the era when seats in Congress were courteously rotated within parties resulted in low incumbent defeat rates. Eventually, a trend persisted that encompassed changed social attitudes towards rotation and increased success rates of incumbents in elections. The antithesis of the early rotation principle gradually became the norm.

The famous revolt against the power of the Speaker around 1910, which led to the introduction of the seniority system in Congress, was cited by Charles Kesler as a primary factor in congressional entrenchment (Kesler 1990). Because congressmen were rewarded for long tenure, emphasis was placed on returning to Washington. Re-election was the only way to acquire a position of authority within Congress. Gradually, incumbents mastered the art of re-election and rotation in Congress slowed as a result.

David Mayhew argued that Congress has become less affected by electoral tides that come in the form of partisan seat swings. By examining election results over time, Mayhew determined that there had gradually become fewer marginal districts in Congress (Mayhew 1974). If fewer congressmen are winning their seats narrowly, and if the proportion of open seats per election has

decreased, then entrenchment naturally follows. Mayhew determined that the lack of election competition has slowed congressional rotation.

Edward Tufte explained the decreasing turnover in Congress as being due to the effects of redistricting and gerrymandering (Tufte 1973). He argued that the influence that incumbents have over the process of redistricting has lead directly to the security of their seats. Decreased election competition brought about by manipulation of voting populations has allowed incumbents to remain in office for longer tenures, thereby decreasing rotation in Congress.

Nelson Polsby examined what he called the institutionalization of the House of Representatives (Polsby 1968). He showed that there has been a hardening of the boundaries into Congress as length of service in the House has increased. Contributing to the institutionalization was the increased complexity of internal structure, the specialization of duties and functions, and the increased role of seniority. Mastering the new Congress required higher standards of professionalism. Through institutionalization, Polsby argued, the motivation for service in Congress shifted from one of public duty to one that was more career-oriented. As emphasis was placed on remaining in office, incumbents developed increased efficiency in re-election methods. The final effect of the institutionalization of

Congress was the slowdown in the rotation of membership.

John Ferejohn posited that an increased flow of information out of Washington by incumbents had switched the public's primary voting cue away from simple party identification to incumbency itself (Ferejohn 1977). Incumbents maintained visibility and increased constituency contacts through advances in communication technology. Hence, incumbents were able to rely on name recognition as a means to re-election. The result has been an increase in incumbent retention rates and a steady decline in rotation.

Richard Fenno discussed what he termed "home style" in reference to the behavioral changes in congressmen to increase contact with their constituency (Fenno 1978). Modern emphasis on careerism has made incumbents increase visual ties to their districts as a show of concern for the electorate's needs. By spending time at home with the voters, a congressman could prove how interested he was in their needs and of what value he was to them. The result has been a positive identification between elected official and constituency, typically resulting in re-election for the incumbent.

Finally, Morris Fiorina explained how the growth of bureaucracy has had a direct positive effect on re-election rates (Fiorina 1977). The increased size and complexity of the federal government has resulted in an increase in the number of problems that the public

encounters as a result of their dealings with the massive bureaucracy. The public has increasingly turned to their elected officials for problem resolution because their congressmen were the ones familiar with the system and the Washington environment (after all, they created it!). Consequently, as the bureaucracy grew, the time that congressmen devoted to individual case work increased. At election time, the voters remember the effort that their congressmen put out for them and recognize the value of returning him to Washington. Fiorina argued that the voters are better served by an official that has been in Washington for a significant length of time and has gained both experience and seniority. The result has been increased support for incumbency and decreased turnover of membership.

The aforementioned studies serve as a sample of the literature pertaining to rotation in Congress. Each contributed its own explanation of current trends in congressional turnover. However, all were in agreement that there has been a growing entrenchment of Congress manifested in the form of increasing lengths of tenures, decreasing percentages of new members, and increasing incumbency re-election rates.

The Rise of a Paradox

The trends in congressional rotation create a troubling paradox when superimposed onto the negative

public opinion towards Congress. It was mentioned earlier that sixty-four percent of adults were strongly dissatisfied with Congress' performance. The inability to balance the budget, wasteful spending, salary increases, generous privileges provided to members, and repeated stories of corruption from the capitol have all contributed to the slumping esteem of Congress. Recent publicity of the ease with which incumbents have won re-election has only increased the public's indignation. But yet, results from the ballot box fail to reflect the public's frustration. Recently, incumbents in the House have been re-elected at a rate of over ninety-percent (Struble and Jahre 1991). Senators have enjoyed a seventy-five percent return rate. Logic dictates that if voters were not satisfied with the performance of their elected representatives, they would vote them out of office. The public's dissatisfaction with Congress then, should materialize in the form of relevant levels of rotation. The rotation figures, however, show exactly the opposite. Turnover of membership in Congress has slowed down significantly.

The frustration over Congress has not been translated into rotation of membership. This then, is the paradox: voters have the means (elections) and the impetus (dissatisfaction with Congress) with which to provide natural rotation in Congress, but fail to do so. Instead, the complaints continue and there is a call for

provisions to provide automatic rotation. Surveys mentioned earlier measured public opinion to be three-fourths in favor of congressional term limitations due to general public disappointment with the performance of Congress.

The studies of Struble, Kesler, Tufte, Polsby, and Ferejohn explained congressional entrenchment by the effects that incumbency has on election competition and voting behavior. Publicity, gerrymandering, and name recognition are each means by which incumbents can enhance their chances of re-election. But, these studies fall short of explaining why a public so seemingly disgusted with their elected officials, fails to vote them out of office. The fact is, despite the advantageous effects of incumbency, the public has the opportunity to change Congress every time their congressman runs for re-election. Ironically, the argument can be made that incumbency should increase the voters awareness of which name on the ballot is the "rascal" to be thrown out.

The "throw the rascals (incumbents) out" campaign in recent elections has aided the term limitation movement. This effort called on voters to provide wholesale rotation in Congress by simply voting against incumbents. These attacks, also motivated primarily by dissatisfaction, were directed at Congress as an institution. But, voters continued to defy their own

sentiments by retaining their congressmen and not reforming Congress through rotation. While aggregate public opinion ran high against Congress, local support remained behind the individual congressman.

Can this paradox be resolved by application of early constitutional theory? The crisis itself may not be abated, but the basic reasoning in the original debate can define the nature of this perplexing relationship. The burden of defense rests with the Federalists since it was their system that has presented the paradox.

The key to resolution of the paradox lies in the Federalist's theory on re-eligibility. The Federalists argued that under a democratic system, the public inherently possessed the right to continue a representative in office for as long as the majority wished. Re-eligibility would force elected officials to maintain the favor of the voters. Only by satisfying the needs of the electorate could a congressman gain re-election.

Modern re-election rates reveal just that situation, only exaggerated. Slowed rotation reflects the voter's satisfaction with their own congressmen, regardless of any feelings they may have towards Congress as an institution. As explained in the studies of Fenno and Fiorina, congressmen are doing more for their districts than ever before. Fenno argued that constituency contact is at an all time high and that congressmen rely on "home

style" to create the feeling of a close relationship between voters and representative. Fiorina found that the effort devoted by congressmen to solving individual problems of their constituency in the form of casework has increased as the size of the federal bureaucracy has multiplied. Also, pork barrel politics (however wasteful) have rewarded the electorate when they returned an official to Washington.

How does re-eligibility cause congressional entrenchment? Moving a congressional seat away from marginal status requires capturing only a small percentage of the vote. As little as five-percent may be all that is needed to make a seat "safe" during the next election. This spread has been easily overcome by casework or pork barreling. Only five-percent of the voters have to benefit from such activity for it to pay-off in the next election. Therefore, the expansion of both types of legislative behavior has led directly to a slowdown in congressional rotation.

The Federalists reasoned that re-eligibility would force elected officials to "perform" to their audience's satisfaction. The incentive of re-election would compel congressmen to remain in touch with their districts, rather than being seduced into an aristocratic class made up of national politicians. Only in this century has re-eligibility challenged the original value placed on high levels of rotation as congressmen gradually have mastered

the art of re-election. The most effective way to ensure re-election has been to entice the electorate through pork barreling and dedicated case work.

It has been argued that voters evaluate their congressmen by different criteria than they do Congress (Parker and Davidson 1979). Congress is judged on the basis of its performance on domestic policy, legislative-executive relations, and the style and pace of the legislative process. Congressmen, on the other hand, are judged primarily on the basis of their service to constituents and their personal characteristics. Because Congress is judged by more sweeping and stringent criteria than are its members, partly explains why the "throw the rascals out" campaign has showed little fruition. In 1991, only fifteen incumbents lost their bid for re-election in the House, and one in the Senate. These results suggest that while the voters are disgruntled with Congress, they are satisfied with their congressmen. A more appropriate slogan for this phenomenon would be "throw the rascals out, except mine."

The Federalists may not be completely satisfied with the characteristics of the modern Congress, but they can rest assured that their theory on re-eligibility was accurate. This study has shown how re-eligibility has actually decreased congressional rotation. As a function of that relationship, representatives are closer to the voters than ever before. The paradox then, is resolved:

negative public opinion against Congress does not manifest itself in rotation of membership because voters are content with the relationship they have with their personal representatives.

Conclusion

This has been an introductory study of term limitation history and early rotation theory in this country. It attempted to provide two elements of merit. First, the original constitutional debate over the value of turnover in Congress and the necessity of automatic rotation provisions were analyzed to provide understanding of term limitation theory. Second, trends in congressional rotation and the contemporary term limitation movement were examined in the context of that founding theory.

This thesis began by establishing the commonality of term limitations and the institution of the rotation principle in the pre-Constitution era. Then, the contending rotation theories of the Federalists and Anti-federalists were examined and the most elemental differences were determined. Finally, this study traced congressional rotation over time and examined the recent term limitation campaign, both within the framework of the original debate. The conclusions drawn from this study are:

1. The rotation principle was well established at the time the Constitution was drafted.

2. The use of term limitations was, at one time, common in America, especially in the states but also under the Articles of Confederation.

3. Term limitations were expunged from national politics during the Constitutional Convention.

4. The value of rotation in Congress was vigorously contested during the ratification debates.

5. The Anti-federalists held rotation as an ideal, necessary to maintain government accountability, and therefore, endorsed term limitations.

6. The Federalists opposed mandatory rotation, arguing that it deprived Congress of valuable qualities and that re-eligibility would provide accountability.

7. Rotation in Congress has slowed over time as congressional careers have lengthened.

8. The contemporary term limitation movement differs from the campaign of the Anti-federalist, both in its motivations and its support base.

9. Re-eligibility has created a relationship in which congressmen are forced to please the voters, which they have done most efficiently through pork barrel politics and case work.

10. Public dissatisfaction with Congress, the institution, has not translated into congressional rotation due to the effects of re-eligibility.

The Anti-federalists strongly believed that automatic rotation was needed to offset the vulnerable side of human nature. In supporting term limitations, they were willing to sacrifice the sanctity of public choice. The Federalists believed that rotation should be left in the hands of the voters. Re-eligibility would motivate representatives to always act in the public's interest. For the Federalists, elections were the mechanism by which unfavored public officials were removed, not term limitations.

Term limitations are instruments aimed at modifying the character of Congress. That is true of Anti-federalist theory as well as that of modern supporters. In as much as term limitations apply to individual legislators, their ramifications would be felt most in the basic institution of representation. The use of term limitations would redirect the focus of representative behavior. With the stimulus of re-eligibility, congressmen are motivated by re-election to always work to please the voters. Under the restrictions of term limitations and without a provision for re-eligibility, that incentive is not there. Congressmen would be less concerned with winning the favor of the voters, decreasing their dedication to pork barrel politics and intensive case work. Therefore, implementation of term limitations would redefine the fundamental principle of representation.

The paradox presented in this study was resolved by the application of the Federalist's theory on re-eligibility. While the public maintains a negative opinion of Congress, they continue to return their congressmen to Washington. This phenomena was captured by the "throw the rascals out, except for mine" theory. This paradoxical relationship suggests that recent public support to implement term limitations on Congress has targeted entrenchment of officials as an evil in itself, and not necessarily the consequences of long-term

congressional service.

An interesting event has occurred then, if as concluded, term limitations are being promoted because of a fundamental disrelish for entrenchment of elected officials. It implies that there has been a resurgence of the original constitutional debate in which the Federalists argued for re-eligibility against the Anti-federalists who held rotation as an ideal in itself. As the arguments grows louder and the viewpoints intensify, students of constitutional theory can enjoy a re-enactment of the founding debates.

BIBLIOGRAPHY

- Adams, Willi Paul. The First American Constitutions. Chapel Hill: The University of North Carolina Press, 1980.
- Brenner, Philip. The Limits and Possibilities of Congress. New York: St. Martin's Press, 1983.
- Burnett, Edmund Cody. The Continental Congress. Connecticut: Greenwood Press Westport, 1975.
- Copeland, Gary, and John Rausch. "The End of Professionalism? The Dynamics of Term Limitations." Paper prepared for the Annual Meeting of the Southwestern Political Science Association, San Antonio, March 1991.
- Cronin, Thomas. Direct Democracy. Cambridge: Harvard University Press, 1989.
- Fenno, Richard C., Jr. Home Style: House Members in Their Districts. Boston: Little, Brown & Co., 1978.
- Ferejohn, John. "On the Decline of Competition in Congressional Elections." American Political Science Review, Vol. 71, 1977.
- Fiorina, Morris. "The Case of the Vanishing Marginals: The Bureaucracy Did It." American Political Science Review, Vol. 71, 1977.
- Fiorina, Morris. Congress--Keystone of the Washington Establishment. New Haven: Yale University Press, 1977.
- Hamilton, Alexander, John Jay, and James Madison. The Federalist Papers. Edited by Clinton Rossiter. New York: Mentor, 1961.
- Jenson, Merrill. The Articles of Confederation. Madison: The University of Wisconsin Press, 1963.
- Jewell, Malcom, and Samuel Patterson. The Legislative Process in the United States. New York: Random House, 1986.
- Kesler, Charles. "Bad Housekeeping: The Case Against

- Congressional Term Limitations." Policy Review, No. 53, Summer 1990.
- Klein, Michael. "Limiting Congressional Terms: An Historical Perspective." A White House Paper prepared for the Americans to Limit Congressional Terms, Washington DC, 1989.
- Madison, James. Notes of the Debates in the Federal Convention of 1787. Edited by Adrienne Koch. New York: W.W. Norton, 1987.
- Main, Jackson Turner. The Antifederalists. New York: W.W. Norton & Company, 1961.
- Mann, Thomas, and Norman Ornstein, eds. The New Congress. Washington: American Enterprise Institute for Public Policy Research, 1981.
- Mayhew, David. "Congressional Elections: The Case of the Vanishing Marginals." Polity, Vol. 6, No. 3, 1974.
- Montross, Lynn. The Reluctant Rebels. New York: Harper & Brothers Publishers, 1950.
- Parker, Glenn, and Roger Davidson. "Why Do Americans Love Their Congressmen So Much More Than Their Congress?" Legislative Studies Quarterly, Vol. 4, No. 1, 1979.
- Pleasants, Samuel. The Articles of Confederation. Ohio: Charles E. Merrill Publishing Company, 1968.
- Polsby, Nelson. "The Institutionalization of the U.S. House of Representatives." American Political Science Review, Vol. 62, 1968.
- Rakove, Jack. The Beginnings of National Politics. New York: Alfred A. Knopf, 1979.
- Rovner, Julie. "Turnover in Congress Hits an All-Time Low." Congressional Quarterly Weekly Report, Vol. 46, November 1988.
- Stephenson, Grier; Bresler, Robert; Friedrich, Robert; and Joseph Karlesky. American Government. New York: Harper & Row, 1988.
- Storing, Herbert, ed. The Complete Anti-Federalist. Chicago: University of Chicago Press, 1981.
- Storing, Herbert. What the Anti-Federalists Were For. Chicago: The University of Chicago Press, 1981.
- Struble, Robert, Jr. "House Turnover and the Principle of

Rotation." Political Science Quarterly, Vol. 94, No. 4, Winter 1979-80.

Struble, Robert, Jr., and Z.W. Jahre. "Rotation in Office: Rapid but Restricted to the House." Political Science and Politics, March 1991.

Thorpe, Francis Newton. The Constitutional History of The United States. New York: DA CAPO PRESS, 1970.

Tufte, Edward R. "The Relationship between Seats and Votes in Two-Party Systems." American Political Science Review, Vol. 67, 1973.

APPENDIXES

APPENDIX A

LENGTH OF CONGRESSIONAL CAREERS

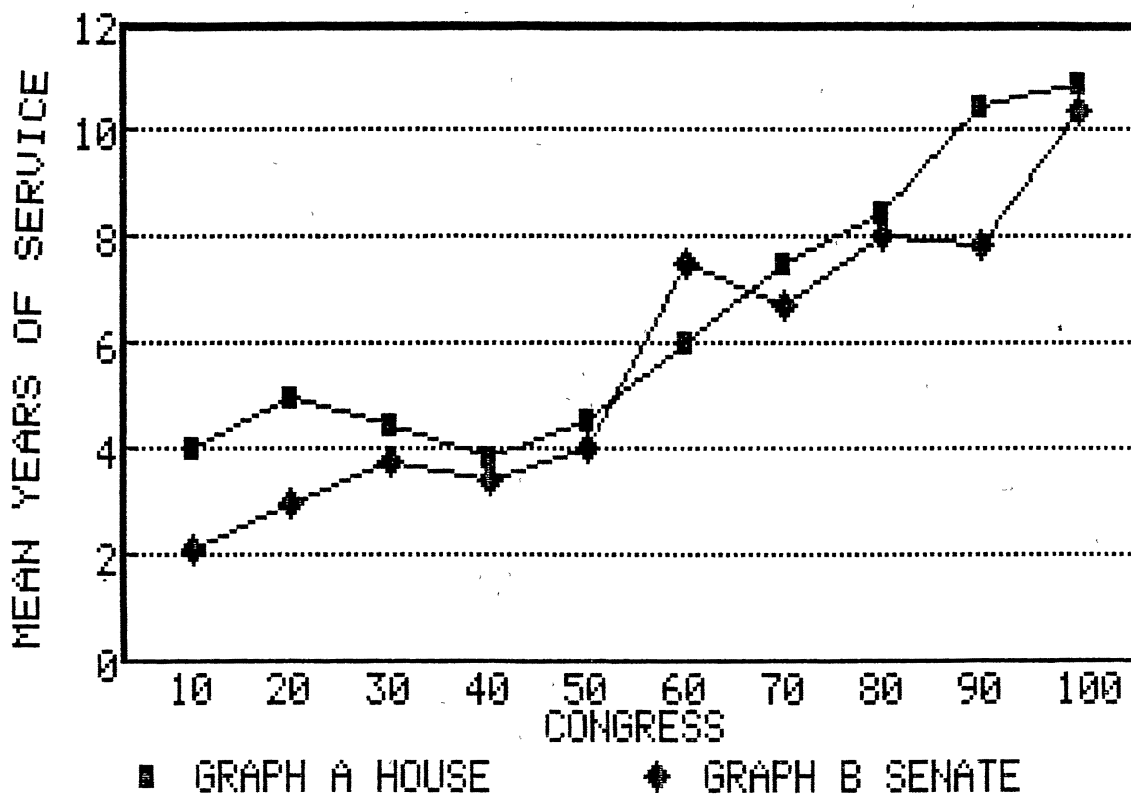


Figure 1. Length of Congressional Careers

Source: Stephenson, Grier; Bresler, Robert; Friedrich, Robert; and Joseph Karlesky. American Government. New York: Harper & Row, 1988.

APPENDIX B

CONGRESSIONAL ROTATION AS PERCENT
FRESHMAN MEMBERSHIP

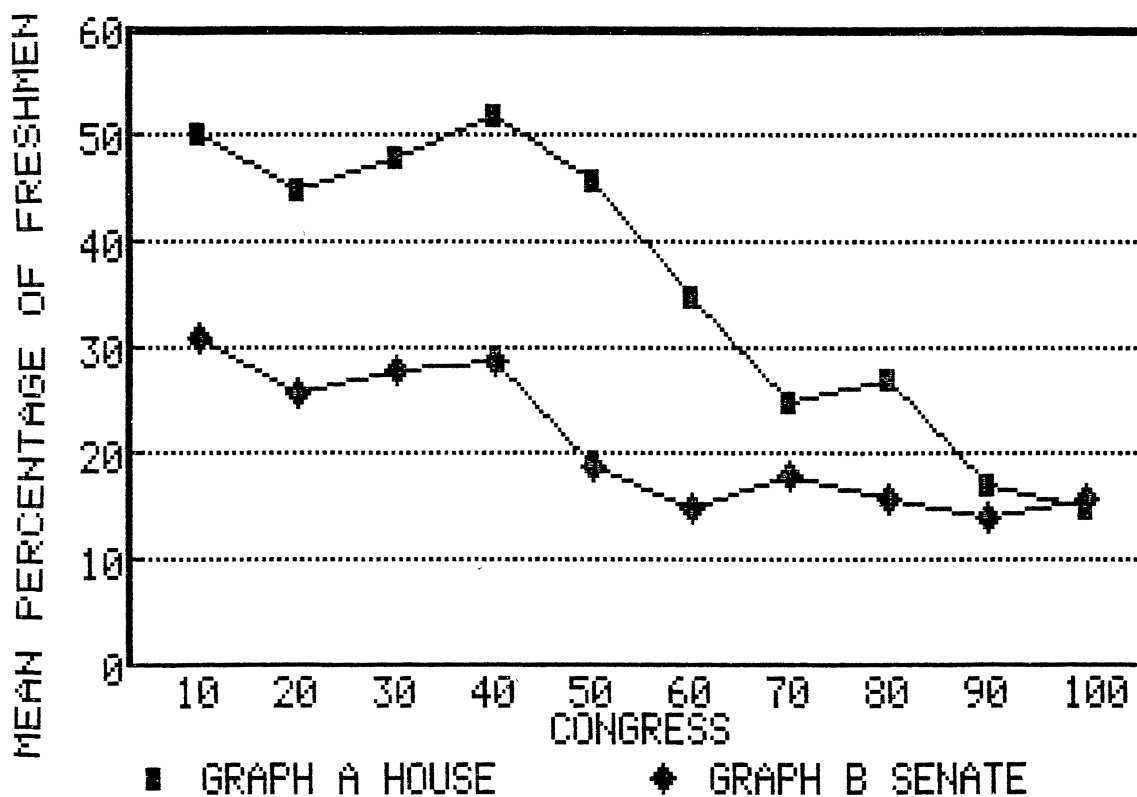


Figure 2. Congressional Rotation as Percent Freshmen Membership

Source: Stephenson, Grier; Bresler, Robert; Friedrich, Robert; and Joseph Karlesky. American Government. New York: Harper & Row, 1988.

VITA

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