

## **Term Limits: Causes and Consequences**

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**SECOND DRAFT: Please contact author regarding citation.**  
(August 2000)

**Keywords:** term limits, congressional tenure, federal spending, constitutional reform

**JEL Classifications:** H11, D72.

**Abstract:** This paper consults multiple literatures to specify and evaluate the economic rationales for term limitation, particularly on Congress. Two main lines of argument are considered, both of which begin with the empirical phenomenon of high and rising congressional tenure. First, supporters of term limits argue that higher tenure biases legislatures toward inefficiently big government (high spending). Second, higher tenure creates inefficient (anti-competitive) conditions in the legislative election market. Term limitation would remedy these inefficiencies by virtue of decreasing average tenure. These claims are then evaluated in light of the evidence amassed in the literature. Based on the literature reviewed, this paper finds that, while term limits will reduce average tenure, there is no evidence to suggest that term limits will affect the underlying causes of these inefficiencies. A more general reform, which would strike deeper at these underlying causes, is implied.

**Length:** 17,500 words

**Acknowledgments:** Thanks to Bruce Bender, Lawrence W. Kenny, W. Robert Reed, Noel D. Campbell, Alex Tabarrok, Bernard Grofman, William A. Niskanen, Gordon Tullock, James M. Buchanan, Tyler Cowen, and Randall G. Holcombe for their helpful comments. Thanks also to Hsiu-Ju Yang for her valuable research assistance.

Thanks to the Atlas Economic Research Foundation and the Earhart Foundation for financial support. Special thanks to Robert D. Tollison. I am exclusively responsible for oversights and/or errors.

## Term Limits: Causes and Consequences

### 1. INTRODUCTION:

Research on term limits grew significantly in the 1990's and left a variety of unresolved questions in its wake. This article brings together the various contributions of the term limits literature, summarizes what the body of work has to say, and highlights areas of ongoing debate and remaining problems. Understanding term limitation in this way requires understanding its context, which takes us into the related literatures of congressional tenure, government growth, campaign finance, welfare economics, and others. Thus, the purpose of this paper is to integrate the work on term limits into the economics literature at large, and thereby answer otherwise unresolved questions. Doing so makes clear the lessons that term limits research has to offer, which until now have been somewhat scattered and ambiguous. This is an extensive exercise. To make it tractable I have organized the survey around an imaginary hub, with causes for term limits occupying one spoke and consequences the other.

By "causes" I refer to reasons why term limits may be a desirable institution. There are many reasons a polity, or private groups within a polity, may wish to limit terms of office. In the interest of brevity and parsimony of analysis, I ignore non-economic arguments for term limitation. For example, the journalist George Will has argued term limits will return Congress to the founding fathers' vision of representation (Will 1992). Similarly, Washington public policy groups have argued that term limits will restore a citizen legislature, or that term limits will increase racial and gender diversity in office.<sup>1</sup> One could be persuaded that these are largely rhetorical instruments for the true underlying economic reasons for supporting term limitation. The present focus is on expected social and private gains as causes for supporting term limits. I therefore stick to the economic arguments.

By "consequences" I mean the positive effects of term limitation on political, economic, and public policy variables. I will pay special attention to the consequences vis-à-vis the arguments advanced in support of term limitation. This enables me to make a positive economic evaluation of term limits later in the paper.

I have two caveats before proceeding. First, I generally restrict the survey to the economics and political science literatures. There is a legal literature on term limits, discussing original intent (Price 1996), the qualifications clause of the Constitution (Zubler 1995, Thomas 1995), states' rights (Cutler 1994), and other constitutionality issues. I am not specialized in this area so as to discuss these important questions. Moreover, they fall slightly afield from this forum. Second, I also emphasize term limits for legislatures, particularly Congress, over other offices. Congress is the only elected office in

American government not regulated by term limitation. As a result, there are open questions on congressional term limits, particularly regarding the consequences. And there is, therefore, considerably more literature on legislative and congressional term limits than executive or judicial. There are important lessons, however, to draw from the research conducted on these other offices, particularly gubernatorial limits. So the emphasis on term limits for legislators will not be to the complete exclusion of term limits for executives and judges.

The plan of the paper is as follows. In the remainder of Section 1, I briefly discuss the interest group theory of government (because most term limits studies are either implicitly or expressly in this context) and the chronology of term limits. These are not intended to be thorough treatments but merely to “set the stage” for the thorough discussion of the term limits literature that follows. Next, in Section 2, I discuss the history of congressional tenure, specifically the transition from low and stable tenure to high and increasing tenure. In Section 3, I use the causes of this transition to present the two leading arguments for term limits. In Section 4, term limits become the dependent variable, and I present the literature on why a polity or group would desire term limits. In Section 5, term limits become an independent variable, and I discuss their consequences on political and economic variables. Section 6 presents my evaluation of the arguments for term limits based on the literature reviewed, and Section 7 briefly summarizes the results obtained in the paper.

### **1.1. The Market for Wealth Transfers:**

The literature on term limits has developed within the context of the interest group theory of government.<sup>2</sup> This is foremost a positive theory: the government’s primary function *is* (as distinct from *should be*) to redistribute wealth among private groups in the polity. Collective action costs increase with group size and heterogeneity (Olson 1965). Legislatures broker wealth transfers from politically ineffective groups, those with high Olson-costs, to politically effective groups, those with low Olson-costs. The particular mode of legislation is not essential to achieving the transfer,<sup>3</sup> but the one well-known caveat is that the wealth transfer typically will not take the form of a cash payment (Stigler 1971: 4).

Legislators maximize their net political support rather than social welfare. The quantity of wealth transfers that maximizes net political support is, in a *political* sense, the efficient quantity. As in economic markets where competition is equilibrating, political competition among interest groups pushes the legislator to match marginal demanders with marginal suppliers of wealth transfers, and the politically efficient quantity of transfers is reached. In the *economic* (i.e., wealth-maximizing) sense of efficiency, wealth transfers through legislation are inefficient due to both deadweight and rent seeking

costs (Tullock 1967). Posner (1975) estimates deadweight losses in the range of 10 to 60 percent of industry sales (depending on the industry and estimates of demand elasticity). Similarly, according to estimates of rent seeking costs from Laband and Sophocleus (1992, 1988), the United States economy loses up to one-quarter of GDP per annum in transfer activity. The market for wealth transfers tends toward *political* efficiency but away from *economic* efficiency.

There is a premium on seniority in the market for wealth transfers, both to the legislator and the individual district. The more productive a legislator at making the marginal adjustments to political efficiency, the greater will be the probability of reelection and the returns to holding the office. Productivity in brokering wealth transfers is a function of parliamentary rights such as committee seats, agenda power, and leadership positions, all of which are positively correlated with relative tenure, or seniority. Each legislator has the incentive, therefore, to accumulate tenure vis-à-vis other legislators. And their electoral support groups, toward which wealth transfers are directed, share in this incentive.

This is where term limitation becomes relevant: social welfare would be improved were the incentives to transfer mitigated or outright eliminated. Though the Posner and Laband/Sophocleus estimates are not free from controversy, one argument suggests that term limitation may be a vehicle for recovering some or most of these economic costs. Second, incumbents collectively control many of the institutions determining the competition they will receive from challengers to their seats. If incumbents have erected barriers to entry such that the congressional election market is anti-competitive, term limitation may enhance political efficiency. Each argument presents a case for term limits based on excessive tenure. It is along these two possibilities, and within the context of the public choice model of government, that I will discuss the causes and consequences of term limits.

## **1.2. Historical Sketch of Term Limits:**

It is necessary, before proceeding, to establish basic facts about term limits in history. The idea of term limitation, like so many democratic institutions, derives from antiquity. Aristotle endorses rotation of public office in *The Politics*:

Such being our foundation and such the principle from which we start, the characteristics of democracy are as follows: the election of officers by all out of all; and that all should rule over each, and each in his turn over all; that the appointment to all offices, or to all but those which require experience and skill, should be made by lot; that no property qualification should be required for offices, or only a very low one; that a man should not hold the same office twice, or not often, or in the case of few except military offices; that the tenure of all offices, or of as many as possible, should be brief...

Aristotle, *The Politics*, Book VI, Section II

In addition, the Greeks practiced term limits in many forms. Oakley (1994:14 ff.) shows that term limits were a feature in most of the Greek constitutional regimes. Particularly in the democratic

regimes, the term length and maximum tenure in many public offices were specifically enumerated. Some branches of the government, such as the 500-member *Boule* (“Council”) were subject to stringent limits of only one term.<sup>4</sup>

Term limits disappeared in practice until the American founding era, but resurfaced in thought with the renaissance of republican theory, roughly in 16<sup>th</sup> century Italy and England. Continuing with the Levelers, Physiocrats, and Enlightenment thinkers, this heritage was brought to the American founding, where *de jure* term limits again came into practice under the Articles of Confederation:<sup>5</sup>

No State shall be represented in Congress by less than two, nor 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...

Articles of Confederation, Article V, Paragraph 2

Term limits were nearly included in the U.S. Constitution as well, but their exclusion is not well understood. James Madison strongly favored *de jure* term limits, and included them in his Virginia Plan. Similarly, George Mason wrote term limits into the Virginia Declaration of Rights, which later informed the Bill of Rights. Despite strong intellectual support from such respected figures as Madison and Mason, and an apparently firm agrarian coalition of support that included Washington himself, mandatory rotation of office was dropped from the Constitutional debate with little episode. This is not to say the framers deemed term limits an unworthy *idea*; some of them did, and others did not.<sup>6</sup> But when ideological, legal, and economic constraints were brought to bear on the array of ideas proposed before the convention, term limits did not survive. A systematic, rational choice explanation of exactly how this played out eludes the literature.<sup>7</sup> For now, we rely on the conventional interpretation that the framers considered term limits an unnecessary detail due to their expectations that tenure problems would take care of themselves through naturally (voluntary) rapid turnover of representation.

Term limits almost entirely disappeared until the 1990’s, when a “term limits movement” swept change throughout the political institutions of American democracy. **Table 1** provides chronological detail of these institutional changes. Beginning with the 1990 general elections, 23 states voted to impose term limits on their delegations to the US Congress. These laws were contested, and ultimately deemed unconstitutional under a 5-4 U.S. Supreme Court ruling (*U.S. Term Limits, Inc. v. Thornton*, 115 S.Ct., 1995). In 1992, term limits were a pillar in the platform of presidential candidate H. Ross Perot. In 1996, term limits were an issue in the Republican presidential primaries. And in that year’s election cycle, initiatives in 10 out of 14 states passed that enacted so-called “Informed Voter Laws” instructing their state legislatures to vote for an Article V constitutional convention with the explicit intention of imposing congressional term limits.

Term limits were an important issue within Congress as well. In 1994, virtually all of the 73 freshmen elected to the House of Representatives made promises to vote for term limits. During the 104th Congress that followed, term limits were part of the Republican “Contract with America.” Just

*Thorton* ruling, the House brought term limits to floor votes. Later that year the Senate took a procedural vote on term limits, marking the first time in forty years that term limits came to the floor in both chambers. None of the measures in either chamber gained the majorities required to pass. Republicans, now in the majority, again made term limits a campaign issue in the 1996 election cycle, and the bill was again introduced at the start of the 105th Congress. The bill met with similar defeat.

## 2. CONGRESSIONAL TENURE:

### 2.1. 19<sup>th</sup> Century Congressional Tenure:

For more than a century, the framers’ expectation of high congressional turnover proved true. **Figure 1** illustrates this with the simple time series of turnover (percent of incumbents replaced) for the history of Congress. Until 1890, average turnover was close to 46 percent. Since then, it is barely 20 percent. Until the 1880’s, mean tenure was close to two terms, but by the 1900’s it had increased to 3.5 terms (Gilmour and Rothstein 1996). This long-term adherence to the founders’ vision was followed by a relatively abrupt reversal near the end of the 19<sup>th</sup> century. As can be seen with the six-year moving average in **Figure 1**, turnover experiences a period of steep decline in the 25 or so years beginning about 1870. As Kernell (1977:671) observed, “From the Civil War through the 1920’s...there appears to have been near linear growth of congressional careerism...” This can be seen in **Figure 2A**. From 1865 to 1921, turnover declined by an average of 1.01 percent every year. Between 1883 and 1910, turnover declines by 2.1 percent annually, as shown in **Figure 2B**. These visual inspections merely illustrate what historians of Congress have recognized for generations: that the last few decades of the 19<sup>th</sup> century ushered in the professionalization of Congress.

But why? To specify and evaluate the arguments for term limits, it is necessary to first understand why low and stable tenure patterns became high and rising tenure patterns. Fortunately, we can rely on a rather cogent literature investigating this change, despite its multiple layers of causation among numerous variables. Two classic studies in particular present a fuller picture.

Polsby (1968) describes the transition of the House of Representatives into a more efficient and internally professional body with its own rules, division of labor, and both *de jure* and *de facto* norms. As the House took on distinct organizational boundaries, it became more complex and specialized—as evidenced by increased autonomy from the executive branch, the importance of

committees to producing legislation, and increased salaries, staff, facilities and perquisites of office. The House also took on specific rules and meta-rules, such as the seniority system for committee assignments.<sup>8</sup> In short, the House had become a distinct and identifiable institution, both requiring and affording the professionalization of its members. This “institutionalization” argument suggests several incentives toward increased tenure. Polsby reports a decreasing percent of first term members, higher mean tenure, and other similar measures starting sometime in the second half of the 19<sup>th</sup> Century.<sup>9</sup>

The other classic study on which we rely is Kernell (1977), which introduces developments outside the Congress that added to the internal incentives toward increased tenure. Three factors, in some combination, prevail in Kernell’s analysis: 1) less party competition for seats; 2) increased political ambition among members; and 3) diminished voluntary rotation. We come to a clearer understanding of the transition to professionalism by examining Kernell’s factors in the context of the broader and more recent literature.

First, diminished competition for congressional seats. Due to the use of party ballots, straight party voting characterized the late 19th century. An incumbent—even one with seniority—was vulnerable to losing office if his party lost. With the adoption of the Australian ballot through the 1890’s one of the earliest incumbent advantages was introduced, and incumbents became less constrained in controlling their individual seats (Rusk 1970). Most scholars pinpoint the change at the 1896 election, after which increasing numbers of incumbents sought reelection (Price 1975). Aside from ballot rules, gerrymandering was frequently in use to protect the incumbent party’s seat, and racial disenfranchisement in the south perpetuated the tenures of safe white seats in the south (Erickson 1995). We see, therefore, strategic barriers to entry long before the 20<sup>th</sup> century, the era that has been the focus of all modern economic research on competition in the congressional labor market. Nonetheless, this diminished competition for seats explains why the decline in turnover accelerated about 1896, but not the origination of the trend itself, which began thirty years prior.

Second, ambition among representatives. Driven mostly by centralizing political power and interest group demand for transfers, representatives were given greater incentive to accumulate terms in office. Certain symptoms of increasingly centralized federalism, while difficult to measure and perhaps endogenous to congressional ambition, most plausibly added to the careerist’s attraction to Congress. Increasing authority of the national government took many forms after the Civil War. The Interstate Commerce Act (1887) created the nation’s first regulatory bureaucracy and an important oversight role for Congress. An emboldened Congress followed with the Sherman Antitrust Act (1890) and a comprehensive array of import tariffs later that year.<sup>10</sup> These were conspicuous signals

to the politically ambitious that their functions as would-be members of Congress were becoming of increasingly central importance to economic welfare across the nation. Congress' greater power was not lost on interest groups either, which served to fan the fires of ambition yet more. Union troops after the Civil War were the first major, identifiable interest group to successfully acquire private transfer legislation from the national government. They succeeded because they effectively argued a legitimate claim on the government's resources (at that time in significant surplus), and their political support provided an expedient item of exchange with the controlling Republican party (Holcombe 1999). This experience had the twin effects of setting a precedent for transfers and attracting both additional interest groups and visionary legislators who saw the potential of the new wealth transferring polity. There is little question, as Holcombe notes, that "the role of interest groups in American government was transformed in the decades after the Civil War, and the influence of veterans as an interest group was a crucial part of that transformation" (Holcombe 1999:14). Particularly in the form of economic regulation, Congress began to broker increasingly significant transfers of wealth. A large body of scholarship, for example, points to the private interest nature of antitrust (McChesney and Shughart 1994), including the origins of the 1890 Sherman Act (Stigler 1969) and similarly the 1914 Clayton Act (Ekelund, McDonald and Tollison 1994, Ramírez and Eigen-Zucchi 2001). Railroad regulation transferred wealth to farmers and alternative shippers. Agriculture secured another transfer in the regulation of grain elevator rates (Anderson and Hill 1980). In sum, the post-Civil War powers of Congress, combined with the increasing demand of interest groups, increased the value of the marginal term in office. This was to the advantage of the politically ambitious—and simultaneously to the disadvantage of the amateur—and led to increasing careerism in Congress.

Third, the decline in voluntary rotation. This effect is less endogenous yet more difficult to accurately measure. Congressional districts in the 19<sup>th</sup> century routinely contained multiple counties and municipalities, each vying to represent the district's seat. Parties saw very early on the need to nominate a single candidate to the general election, and organized caucus conventions to do so. To resolve these simultaneous intra-district and inter-party disputes, gentlemen agreements were entered such that a member elected to two terms would step aside and support the subsequent nomination of one prior convention rival.<sup>11</sup> The institution was never formalized, however, and soon began to wane under the increasing attraction—among individual careerists and their districts/regions—to multiple terms. Eliminating the party caucus in favor of direct primaries solidified the defeat of rotation. This additional incumbent advantage—control of the nomination process—reinforced the trend toward increased tenure.

Which of Kernell's three factors mattered most? The answer is important because, if it can be shown that term limits can alter one or two factors but not another, this would identify the potential for term limits to recover inefficiencies. Kernell takes effort to distinguish the secular impact of the three factors, and concludes that ambition accounts for the largest effect. But his observations are casual. Gilmour and Rothstein (1996) offer more rigorous insight. They develop a dynamic model of congressional tenure that contrasts electoral defeat with retirement as reasons for turnover. They examine cohorts of entering House members and their continuation (or successful re-election) rates, which are strictly determined in their model by voluntary quit ( $q$ ) and electoral loss ( $l$ ) rates. For any  $i^{\text{th}}$  cohort, the continuation rate is  $r^i = (1-q^i-l^i)$ . Looking at these rates over time for multiple cohorts, the model can derive the number and/or proportion of any  $i^{\text{th}}$  cohort in any  $t^{\text{th}}$  House. For example, if  $N$  freshmen enter the House in period 1, then their number in period  $t$  is simply the geometric progression:  $N_t^i = N_1^i(r_1^i)(r_2^i)\dots(r_{t-1}^i)$ .<sup>12</sup> This methodology is used to construct profiles of the tenure and turnover structure of congresses over time. And since the entire model is driven by  $q$  and  $l$ , a given tenure profile can be explained in terms of prior loss and voluntary retirement rates. Their findings are generally consistent with Kernell's story: declining retirement (i.e., increasing ambition) accounts for three-fourths of the decline in turnover between 1870 and 1930. And fewer electoral losses explain the remaining 25 percent. The shares vary within decades, however. Gilmour and Rothstein find, for example, that losses began to have an impact in the 1880's (whereas Kernell said it was the 1890's). Similarly, while many scholars point to the 1896 election as a turning point, Gilmour and Rothstein conclude it was "a culmination of a long process" due largely to declining retirement (1996, p.63). Ambition was the key to the transition to high and increasing tenure.

In the broader context, the changes within and around Congress created a situation in which:

investing one's life work in the House became safer as automatic rules replaced the Speaker's discretion in determining committee advancement. If the environment suggested a complex division of labor and the party system made change possible, the increasingly careerist orientation of its members can be viewed as providing the House with the necessary impetus for structural change.

Kernell (1977:671)

These structural changes provided adequate incentive for legislators to abandon the principles that the founders relied on in forming their expectations of the congresses of the future. Gradually an amateur Congress became professional, and the founders' nobler vision was slowly etched into the background. The market for wealth transfers became the primary descriptor of Congress, and, as the data show, tenure began to increase at the turn of the century. This trend has continued throughout much of the 20<sup>th</sup> century, to which we now turn.

## 2.2. 20<sup>th</sup> Century Congressional Tenure:

As apparent in **Figure 1**, Congressional turnover remained relatively stable between 1900 and the early 1950's, but by the New Deal era a professional and insulated Congress had emerged. Voluntary rotation was history, Congress had become the premier political body in American federalism, and Washington had become a reasonably enjoyable place to live. "By the 1930's Rothstein, "the House was a professional legislature in the modern sense." (1996, p.56). Incumbents also became safer in their seats. Racial gerrymandering, Jim Crow, literacy tests, and female suffrage served to homogenize congressional districts across the nation, making reelection easier (Erickson 1995).

Tenure did not experience a secular change again until just after World War II. Both increasing incumbent advantages and higher wealth transfers to attract more ambitious politicians played roles. Gilmour and Rothstein (1996) report that turnover declined 15 percent between 1926 and 1988. To explain, they contrast 1926-46 (the era of "pre-incumbency") with 1948-80 ("incumbency advantage"). Electoral losses in pre-incumbency averaged 17 percent compared to just eight percent during incumbency advantage. Because retirement rates stayed constant over the two periods, Gilmour and Rothstein attribute all of the increase in tenure to incumbency advantage. Similarly, Scully (1995) shows that the probability of being in office after any number of years is significantly higher in the 86<sup>th</sup> Congress (1959-60) than in the 57<sup>th</sup> (1901-02). However, Scully attributes the change to increasing marginal value of tenure in producing net wealth transfers to interest groups. Indeed, federal spending (both civilian and military) rose steadily after an initial spike during WWI.

Before campaign finance reform in 1974, incumbents in their first few terms were more vulnerable to electoral defeat. This is developed in a series of articles by Bob Reed and Eric Schansberg. It begins with the difficult task of evaluating tenure data in recent congresses, due to the fact that stays of sitting members are not yet complete. This may seem an innocuous challenge, but consider, for example, the 96<sup>th</sup> House that commenced in 1989. Included in this Congress were members with first terms going back to 1953. Of all members who entered office between 1953 and 1989, fully 32 per cent were still in office at the start of the 96<sup>th</sup> Congress. Measuring the stays of each entering cohort with a mean term statistic would count only the members who had already left office, underestimating the cohort's actual tenure insofar as its members remained. Its importance arises in presenting accurate tenure and turnover statistics for modern congresses. Use of mean tenure methodology had limited the samples selected in previous studies including Glazer and Grofman (1987) and Scully (1995).

Reed and Schansberg (1990, 1992) avoid this problem. A continuation rate  $r_{kn}$  measures the probability that a member of the  $k^{\text{th}}$  cohort will continue on to the  $(n^{\text{th}}+1)$  term. Using this probability, they estimate sitting members' remaining time left in office for each  $j^{\text{th}}$  congress by taking the current time in office as  $t$ , the total eventual tenure as  $S$ , and calculating the expected remaining tenure as simply:  $E(S|t = n) = n + \sum_{i=n}^{\infty} \left( \prod_{j=n}^i r_j \right)$ .<sup>13</sup> By first calibrating the expression with pre-1975 continuation rates, and then selectively substituting post-1975 rates, they are able to simulate the marginal effect of a given cohort's continuation rate on the overall sample's trend.

Their findings over the 1953-1991 sample are two-fold. First, tenure has an upward trend over the entire time period, but the rate of increase accelerates after 1975. Substituting the later continuation rates, they find that representatives entering the House from 1977-91 can expect a 16 to 44 percent increase in expected tenure over those entering from 1953-75. These findings are summarized in **Table 2**.<sup>14</sup> Second, Reed and Schansberg are able to further pinpoint the source of these changes by substituting *only the first four* post-1975 continuation rates. They find that the increases in expected tenures that result are very close to those produced by substituting *all* post-1975 continuation rates (reported in column (3) of **Table 2**). In other words, the four cohorts beginning with 1977 explain nearly all of the post-1975 increase in expected tenure. This is a particularly useful finding because it coincides with campaign finance reform in 1974, which, by these data, appears to have increased the advantage of incumbents in their first few terms.

### 2.3. Tenure Overview:

Overall, we have a good understanding of historical patterns in Congressional tenure, and also reasonably cogent explanations for these patterns. Tenure patterns in Congress were stable and low until the middle 19<sup>th</sup> century, which was followed by an upward trend with distinct "jumps" in the late 1890's, mid 1950's, and early 1970's. The causes of increasing tenure are a combination of internal and external factors. Most of the early increases in tenure are attributable to Congress attracting increasingly career-minded individuals to office, possibly due to the increasing role of Congress. Once there, legislators began a gradual, incremental process of insulating the value of incumbency through policies and institutions that dissuade challengers. High and increasing tenure is a combined result of ambition and barriers to entry, and also serves as the chief purpose for desiring term limitation, the arguments for which I now discuss.

### 3. TWO ARGUMENTS FOR TERM LIMITS:

What are the adverse consequences of high and increased tenure that would support arguments for term limits? Proponents of term limits uphold two related efficiency arguments. First, since federal spending increases with tenure and term limits would unambiguously decrease average tenure, then term limits should reduce federal spending. Thus, term limits would enhance economic efficiency. Second, since competition for congressional seats diminishes with tenure and term limits would regularly nullify incumbent advantage, then term limits would then make the congressional election market more competitive. Thus term limits would enhance political efficiency. My purpose in this section is to carefully lay out these two parallel arguments in order to evaluate them.

### **3.1. Tenure and Spending:**

The relationship between tenure and spending might appear relatively obvious, but the research in this area has reached perhaps surprisingly differing results. Aggregate federal spending did not begin its upward trend until 1917 while congressional tenure began to increase perhaps four decades earlier (Borcherding 1977). What is the specific relationship between tenure and spending?

A recent paper by Reed, et al. (1998) attempts to disentangle these issues. The authors present three hypotheses for relating tenure to spending. First, the “culture of spending” hypothesis, advanced primarily by Payne (1991), argues that as a legislator spends more time in office, he becomes used to voting for spending increases.<sup>15</sup> Second, logrolling opportunities could increase with higher tenure, and thereby increase spending. The theoretical literature is moot on the relationship between logrolling and spending (see discussion in Mueller 1989: 82-7). Stratmann (1992, 1995) offers evidence that highly concentrated interests form coalitions around narrow issues such as individual agricultural subsidy programs and defense programs. This is generally consistent with the higher spending thesis. No study, however, either theoretical or empirical, supports a systematic relationship between tenure and the extent of vote trading. Still, the hypothesis is intuitive, given that successful logrolling coalitions require stability, which depends on relationships, tacit agreements, and reputations that build over time. Third, tenure could increase shirking possibilities, which could have an effect on spending decisions. More likely, however, is a relationship between the last period and shirking: the higher an individual member’s tenure the more likely he is to be in his last term. Even so, the sign of shirking on spending is ambiguous.

To test these alternative hypotheses, Reed et al. examine NTU scores (a spending measure based on roll call voting) of representatives and senators entering office between 1975 and 1992. Their findings indicate only a weak relationship between attained tenure and their spending measure. In certain sub-samples, the relationship is actually negative. The culture of spending hypothesis gains

support in the data only with House Republicans entering between 1975 and 1982. The logrolling hypothesis holds only within the senate model. The shirking hypothesis receives no support in the their data. The authors conclude that their results do not support a clear correlation between tenure and spending, nor can they explain *why* tenure might be related to spending. They discuss the ramifications for term limits, to which we will return below.

Other contributions to the literature advance a slightly more certain relationship between tenure and spending. Scully (1995), for example, uses hazard rate analysis to compare tenure and a state's marginal value of wealth transfers between the 57<sup>th</sup> Congress (1901-02, roughly the starting point for increasing federal expenditures) and the 86<sup>th</sup> Congress (1959, roughly the point of tapering off). He then compares geographic constituencies by income, and finds that lower income locales are significantly more likely to feature longer tenures among their delegations. Scully interprets this to mean the marginal value of a wealth transfer increases the marginal value of tenure in office. In other words, Scully argues, poorer districts are willing to sacrifice the benefits of greater rotation in office to obtain the greater income redistribution that higher tenured representatives could acquire. Moore and Hibbing (1996) present a more straightforward finding. Using data on federal outlays by district and state from 1983 to 1990, the authors find that higher tenure in the House does not necessarily increase spending within individual districts. However, higher House and Senate tenure increases spending within the state. Moreover, it is the House portion of the state's delegation that produces the results Senate tenure alone is insignificant.

Amid this murky picture lies a primary cause for (i.e., reason for desiring) term limits: to reduce federal spending by reducing congressional tenure. This reigning in of Leviathan would recover welfare and rent seeking costs associated with excessive wealth transfers. While this argument already seems tenuous because the relationship between tenure and spending is unclear, I will evaluate it further in light of the consequences of term limits that I discuss below.

### **3.2. Tenure and Political Barriers to Entry:**

High tenure creates incumbent advantages like permanent staffs, franking privileges, easier access to media, and particularly brand name recognition. Such advantages have been modeled as barriers to entry, which allow incumbents to be less productive and dissuade more productive challengers from running. Social losses occur in one of two ways. In partial equilibrium, one set of constituents either receive a non-optimal quantity or composition of net transfers, or the costs of acquiring optimal transfers are unnecessarily high.<sup>16</sup> In general equilibrium, all constituents either receive non-optimal

transfers or pay super-optimal costs for transfers. Both conditions are potentially remediable by term limitation.

Lott (1986, 1987b) approaches this problem with a straightforward and useful thesis: because incumbent investment in brand name capital is both sunk and non-transferable (except in rare cases of familial ties), incumbents' past campaign expenditures constitute barriers to entry that limit the effectiveness of potential challengers. Thus, incumbents can inefficiently represent their constituents (note the closeness to the idea of political shirking). This is a simple point, but Lott's analysis and empirics draw an additional important implication. Let  $TC_I$  represent the total costs of the incumbent to produce an amount of government services,  $G$ . The challenger's total costs of  $G$  are  $TC_C$ . The basic problem is that  $TC_I = C_I$  but  $TC_C = C_C + B$ . In these equations,  $C$ 's with subscripts represent the fixed plus variable costs of producing  $G$ , and  $B$  (for "brand name") represents sunk costs not yet encountered by the challenger. But the incumbent acquires  $B$  through campaign spending and on-the-job advertising. In short,  $B$  is an increasing function of prior campaign expenditures,  $E$ :  $\partial B / \partial E > 0$  and  $\partial^2 B / \partial E^2 < 0$ . As mentioned,  $B$  is non-transferable. In economic markets a firm can sell its brand name at a price up to competitors' costs to duplicate it. But in the market for wealth transfers the firm is a politician. An incumbent can endorse another candidate, and he can pass on his name to family members, but a politician cannot sell his name to another candidate.<sup>17</sup> If the incumbent could sell his brand name, there would be no problem because the challenger would purchase it, so long as  $C_C < C_I$ , for a price greater than the incumbent's present discounted value of holding office but less than or equal to his own (Lott 1986: 89). But this is not the case. As a result, for a challenger to effectively compete for the seat, either the incumbent must exhibit high  $C_I$  (be a poor producer of  $G$ ) or  $C_C$  must be sufficiently lower than  $C_I$  to offset the barrier  $B$ . Lott demonstrates that this is unlikely because  $C_I$  declines with incumbent tenure while  $B$  increases with tenure. Therefore, Lott's main point is that least cost producers (in terms of  $C$ 's) are not elected to office, and this is (politically) inefficient.<sup>18</sup>

Lott (1987b, 1989) shows this empirically by comparing incumbents' past investment in brand subsequent investment. If the incumbent's brand name does cause  $TC_C$  to be greater than  $TC_I$  by  $B$ , then higher levels of  $B$  decrease the challenger's return to expenditures and should reduce them. He finds significant evidence, for House elections during the 1970's, that incumbents' *current* expenditures tend to increase challengers spending, which is consistent with common results in the campaign finance literature. However, current challenger spending is *negatively* related to *past* incumbent spending. In addition, controlling for incumbents' time in office indicates that more tenure decreases current challenger spending (at an increasing rate). Lott is

hesitant to interpret the tenure coefficient as a barrier because time in office may simply reflect a low  $TC_1$ . But time in office can cause an incumbent's  $TC_1$  to fall over time with committee seats, logrolling relationships, etc., which are opportunities denied to challengers.

The broader literature is generally consistent with this entry barriers theme. Bernhardt and Ingberman (1985), for example, show voters may be biased toward incumbency even though it is costly. They model voters as uncertain whether candidates will actually fulfill the promises made in their election platforms. They show that it is costly for an incumbent to: a) campaign for re-election on a platform significantly different from his reputation; or b) take actions after re-election that diverge from his reputation established in prior terms. As a result, voters perceive less risk in consistent incumbents than in challengers. Even if the challenger's platform is closer than the incumbent's to the median voter, the incumbent may be re-elected if his platform is consistent with his reputation and not so distant from the median that it overwhelms the value of the economized risk. Thus, constituents may stick with an incumbent, even an inefficient one, because he is a safe bet. Another cost of incumbency is the potential for rent-extraction (see McChesney 1991). As Buchanan and Congleton write:

This potential differential value between incumbency and non-incumbency provides the opportunity for the incumbent legislators to secure rents that increase the costs [to voters] of all special benefit projects. Incumbents have a "cushion" that may be exploited to their own advantage.

Buchanan and Congleton (1994, p.49)

Buchanan and Congleton abstract in their model from many actual institutions through which legislators would extract rents. For instance, Weingast and Marshall (1988) stress the importance of long-term durability to wealth-transferring contracts. Logrolling and the committee system are especially noteworthy as examples of such durability-creating institutions. But each of these, in turn, depends on individual members being in office for a long time.<sup>19</sup> Hence, we come back to the centrality of tenure to these many inefficiencies. Since term limits would reduce tenure, they would reduce political entry barriers, and reduce or eliminate the many associated political inefficiencies.

#### **4. THEORIES OF TERM LIMITS: WHY A POLITY OR GROUP WOULD WANT THEM**

I now place term limits on the left-hand side of the equation and consider their origins. Why, for example, did roughly half the states pass congressional and legislative term limits but the others did not? Or why do voters reelect their incumbents *and* support term limits?<sup>20</sup> More generally, what is the voter's optimal tenure for his representative? These questions do not directly introduce the consequences of term limits. However, the theories that have been developed to solve these puzzles

are motivated by the causes of term limits described thus far in this paper. So in trying to determine whether term limits will enhance political and/or economic efficiency, we begin with theories of the origins of term limits.

#### **4.1. Term Limits as Solution to Free Rider Problem:**

Dick and Lott (1993) construct a model in order to address the apparent paradox I alluded to just now: why do voters continually re-elect their own members of Congress while strongly favoring term limit initiatives? The answer, they claim, is to conceive of voting for legislators as troubled with free-ridership, and term limits as providing the solution to the free-rider problem.

The theory advanced by Dick and Lott (henceforth DL) is an application of the interest group theory of government. Because legislators compete for net transfers vis-à-vis one another, tenure is beneficial to a district both in absolute terms and in relative terms. However, tenure also enables the legislator to accumulate brand name capital, which insulates him from voter preferences and marginally increases the scope for inefficient representation (e.g., shirking). So tenure is a double-edged sword that creates a free rider problem. In this manner, DL reflect the model of executive term limits in Adams and Kenny (1986). High turnover can be costly to the electorate by substituting inexperienced politicians for experienced ones, and by exacerbating incentive problems associated with last term effects. However, high tenure can further weaken the electoral sorting mechanism by worsening Downsian information deficiencies; an electorally comfortable politician creates transfers to himself and to influential coalitions, reducing net transfers to the electorate and increasing welfare costs of redistribution. Adams and Kenny expect to see term limits emerge when the latter effect dominates:

We propose that the existence of tenure limits reflects the importance of deadweight costs (largely because of redistribution), which rise with tenure, relative to turnover costs, the latter falling with tenure.

Adams and Kenny (1986: 304)

But the resemblance of DL to this argument is not complete: in a polity with vying electoral constituencies—a legislative polity—it is *relative* tenure that matters to the district's acquisition of net transfers. As a result, the tenure/turnover tradeoff creates a free rider problem among the pertinent districts. An electorate that removes an inefficient legislator, while other districts continue to re-elect their own, forfeits relative tenure and reduces its net transfers. Meanwhile, districts that retain their incumbents gain tenure and net transfers relative to districts that remove their incumbents. Knowing this, all districts rationally free-ride and the equilibrium is the high-tenure status quo. Legislative term limits enter the analysis as a solution to this free-rider problem:

If all voters could agree simultaneously to limit the tenure of incumbents, ... [this would] ...

lower the cost incurred by any district that removes its incumbent, because term limits place an upper bound on the decline in relative political experience that a district suffers when replacing its incumbent with a challenger.

(Dick and Lott 1993:4)

Hence, while each district is a free-rider, the universal imposition of term limits can be seen as a solution to this the free-rider problem because when all districts vote for term limits at once, none has the incentive to free-ride. In general equilibrium, this explains why voters like both incumbents and term limits.

However, this does not mean that each district is in a partial equilibrium at the optimal balance between tenure and turnover (Adams and Kenny 1986). The DL free rider theory predicts that term limits will be adopted universally—in all states/districts at once. But as discussed in Section 1.2 above, that did not happen. On the contrary, 23 states unilaterally self-imposed term limits, and 27 did not. It seems the literature has had difficulty explaining this anomaly partly due to the dominance of the DL theory, which understates the motivations behind voters' desires for term limits. Yes, voters want term limits because their members become insulated over time as accumulated tenure erects barriers to entry that become sufficient to allow representatives to shirk constituent interests. But this is only half the story. A state/district's net transfers are affected also by members from other states, and a state's voters might want term limits because of the wealth transfers going elsewhere. The DL paradox could perhaps be understood as the fact that voters appreciate their own members because of their ability to bring home wealth transfers, but they also dislike members from other states because they take wealth transfers elsewhere. In experience, the passage of term limits was not a solution to the free-rider problem as much as an indication that free-riding existed and 27 states were doing it. The free rider argument, therefore, explains why voters in 27 states *do not* want term limits on their representatives, but not why voters in 23 states *do*.

Lopez (2000) attempts to sort out these issues using regression analysis of the congressional votes on term limits. The House brought a term limits constitutional amendment to the floor in the 104<sup>th</sup> Congress (1995-96) and again in the 105<sup>th</sup> (1997-98). The amendment gained simple majorities in both votes, but not the two-thirds supermajorities required to pass. After the 104<sup>th</sup> vote but before the 105<sup>th</sup> vote, the Supreme Court struck down the 23 state term limits laws. Lopez looks at voting behavior before and after the Court's ruling, and how it changed for different legislators. In the 104<sup>th</sup> vote, being from a term limited state added between 12 and 25 probability points to the likelihood of voting for universal term limits, *ceteris paribus*. But in the 105<sup>th</sup> vote, this *ceteris paribus* difference in voting disappears, adding at most 0.7 probability points. What do these results suggest? Prior to the Court's

ruling, members from states that had unilaterally imposed term limits were at a disadvantage, and they wanted to impose term limits on all other members as well. In contrast, representatives from states without term limits were at an advantage, and strongly opposed the amendment. One way to interpret this result is as though voters in term limited states had placed themselves in an off-diagonal cell in a prisoner's dilemma game, and legislators responded rationally. Then the Court's decision was made, and all members voted systematically differently the next time around. The off-diagonal disadvantage *completely* disappeared, and voting no longer was affected by whether the representative came from a state with term limits. Instead, the vote transpired as Dick and Lott might predict: representatives from enough states free rode and term limits were defeated.

#### **4.2. Critique of Dick and Lott: Why Unilateral Term Limits?**

It is still a mystery why a state/district would unilaterally impose term limits (or why 23 states did so while 27 did not). No rational player will unilaterally select the low-payoff position in the off-diagonal cell of the basic prisoners dilemma game. More broadly, how can the free-rider theory argue that states will coordinate their behavior in a way that belies the underlying model it employs?

Tabarrok (1994, 1996) takes up this question and is also concerned with the DL paradox. However, his approach is to make a general theory of term limits, which would hold not just for Congress but for any institution and elected office. Tabarrok's "conflict theory of term limits" focuses on the effect that term limits will have on the distribution of power among "conflictual coalitions" (such as political parties or interest groups). Any heterogeneous political jurisdiction will exhibit some degree of conflict among its various coalitions. Each coalition is risk averse to being exploited while another coalition is in power, and the aversion increases with the other coalition's tenure. Term limits are desirable not because they will reduce tenure, but because they will increase the number of open seat elections, and therefore accelerate the rotation of power between these coalitions. Tabarrok cites statistics from House elections between 1960 and 1990 in which open seat elections result in a change of party between three and five times more frequently than incumbent-challenger races (Tabarrok 1996:237). Therefore, term limits should result in more frequent change of coalition control, from which risk averse coalitions benefit. They prefer imposing term limits on *themselves* as a means of ensuring that *other* coalitions would not remain in power long enough to exploit them excessively. This model is capable of predicting unilateral term limits by individual states. The more extreme the differences between groups in the same political jurisdiction, the greater the benefits they derive from rotating their opponents out of office routinely, and thus the more willing they are to rotate themselves. Hence, the "conflict theory" predicts that political jurisdictions with greater conflict will be more likely

to pass term limits. Empirical work on this prediction is limited to a logit model across states, but since there is near perfect correlation between states that have term limits and states that have initiatives and/or referenda, meaningful parameter estimates were not produced.

By similar reasoning, Glaeser (1997) models voters as heterogeneous, in ideological views, and risk averse. In districts where coalitions differ greatly (ideologically), each prefers even odds of being in power for consecutive periods to even odds of being in power permanently. Though rather stylized, the model generates a welfare claim that term limits are more likely to emerge from more risk averse districts so long as the costs of losing relative tenure are not too great. The degree of heterogeneity also matters (though it is not clear from the model whether more heterogeneous districts are necessarily more risk averse). The model also predicts ideologues will support term limits and Downsians will not. So states that take higher net transfers would, *ceteris paribus*, not self-impose.

Konrad and Torsvik (1997) dynamically model bureaucratic incentives, and the effect that political institutions have on efficient oversight by legislators. The authors assume a model with asymmetric information between bureaucrats and legislators (cf. Weingast and Moran 1983, 1984). Bureaucrats generally have longer tenure and, relatedly, more specialized experience and knowledge of the cost/production functions underlying the tasks assigned to the bureau. In contrast to conventional agency solutions such as an efficiency wage, however, it is possible to overcome the information asymmetry by letting legislators have longer tenure. Legislators would then accumulate knowledge of the bureau's functions and can work to alleviate agency inefficiencies. On the contrary, Konrad and Torsvik apply the "ratchet effect" reasoning of the agency literature, which shows that agents bound by long-term contracts will conceal information about their true productivity in early periods to avoid the principal using (i.e., "ratcheting") that information later on. What the principal needs is a time-consistent way to commit to a short-term contract (or at least the strategies thereof). Term limits provide such a commitment. A complication arises because the principal in their model is himself an agent in the broader interest group model of the legislator. But the authors show that the commitment problem reverts back to voters under certain plausible assumptions.

### **4.3. Dynamic Prisoners Dilemma:**

It is possible that none of the above theories is necessary to explaining unilateral action to impose term limits. It is a well known property of the PD model that when played in supergames the dynamic equilibrium may reach the voluntary cooperative, globally optimal combination. Ferejohn (1986) develops this result for political markets. The question then becomes whether voters in the states that passed term limits perceived an effectively infinite horizon to the game. One would also have to ask

why voters in other states did not perceive, or had not yet perceived, the same thing. These are questions that the literature on term limits has not yet taken up. But clues to their answers can be gleaned from the facts as they unfolded. First, direct democracy played a key facilitating role in the passage of term limits: of the 23 states that passed term limits, 22 did so via initiative; every initiative state passed term limits; and none of the 27 states without term limits has an initiative. Second, the Supreme Court in the 1995 *U.S. Term Limits v. Thornton* ruled that state-imposed term limits on Congress were unconstitutional, halting any existing dynamic process toward more states adopting them. Certainly the explanation that only those states with direct democracy pass term limits is an unsatisfying explanation. One possible alternative explanation is that direct democracy facilitates institutional change more quickly, and states that would have imposed term limits and had to do so through representative democracy (i.e., legislative state constitutional amendment) did not have the opportunity to do so because of *Thornton* (Tabarrok 1996). This is a theoretical hunch, but it has some support in that New Hampshire is both the only state to pass term limits via legislative statute and the last to do so—just one month before *Thornton*. The argument implies that more states would have passed term limits after New Hampshire, but were disallowed by the Court.

Even so, this rationale only diverts attention away from the correlation between direct democracy and self-imposed term limits. The underlying question of the political-economic factors why a state—direct democracy or not—would self-impose term limits still remains. One possibility is the presence of Stackelberg-type leadership among the first movers in the game. States unilaterally acted knowing the asymmetric losses they would incur, but they did so with the expectation that other states would follow. Why the others would follow is disputable. Certainly a state cannot penalize another for not adopting term limits, so there would appear to have been no “stick” with which to prod the other states to adopt. On the other hand, there is the “carrot” of global efficiency (general equilibrium) gains to mutual cooperation. But then there is the still bigger carrot of local (partial equilibrium) gains to free riding. Even in the supergame construction of the prisoners dilemma, the cooperative equilibrium is sensitive to large numbers of players, costs of volunteering, and the magnitude of efficiency benefits of mutual cooperation. One would have to argue that states looked away from all these hindrances and still made the first move to self-impose term limits. It seems to stretch the limits of plausibility. Still, it would benefit the argument greatly if one could empirically show that the states that passed term limits conditioned their laws on whether voters in other states also passed. Indeed, five of the 23 states that passed term limits included “trigger clauses,” by which their laws would only take effect after one-half

of the other states also self-imposed term limits. On the other hand, 18 of those 23 states did not include such trigger clauses.

It would seem, therefore, that the dynamic prisoners dilemma applied to term limits suggests numerous testable propositions. But we cannot be sure. To my knowledge, no study either theoretically or experimentally shows the supergame notion advanced here to hold. While we have some decent clues and plausible theoretical hunches why states might self-impose, we are not yet sure.

#### **4.4. Term Limits as Redistribution of Political Power:**

Friedman and Wittman (1996) view term limits as a way to redistribute political power among branches of government and across districts. They write, “term limits enable voters in one legislative district to influence the outcome in other legislative districts.” (229). The formal theory models the production of policy outcomes as a function of the balance of powers and “alignment” of constituent interests with representatives’ performance. They first assume political power increases monotonically with absolute and relative tenure. They next assume constituents compare executive to legislative performance endogenously (a formal property that lets them aggregate evaluations across districts). Third, they assume constituents vote rationally (to maximize alignment between interests and performance). Finally, they assume that term limits will diminish the relative power of the branch on which they are imposed. Three important results are proposed. First, voters favor incumbents over challengers, *ceteris paribus*. Second, voters wish to impose term limits on the branch of government that is least aligned with their interests. Third, voters in a district can rationally wish to reelect their own representative, but still want legislative term limits if: 1) the executive branch is more aligned with their interests; and 2) the seniority of their own representative is relatively low. (The weak form of the proposition still holds even if one of the conditions does not, so long as the other condition is sufficiently pronounced.) Hence, in the Friedman and Wittman theory, term limits are a means to transfer political power: 1) from districts with more senior representation to districts with less; 2) to districts whose interests are more aligned with the executive (congress) in the case of congressional (executive) term limits; and 3) from districts whose representation is in control of the congressional (executive) branch.

The empirical test of their theory was conducted using the vote on California Proposition 140 in 1990 that imposed term limits on the state legislature (Friedman and Wittman 1995). They find that Republican districts voted more in favor of term limits, as did districts whose representatives were less tenured. Also, districts whose legislators had been deemed more effective in constituent surveys were less prone to vote in favor. Examining the Congressional vote on the 22nd Amendment limiting presidential terms, the authors also find those representatives/senators who were weak in executive

relative to congressional political power—Republicans and Southern Democrats—voted consistently in favor of the amendment. Those who were strong in executive relative to congressional political power—highly populous states and non-Southern Democrats—voted consistently against. The authors conclude:

When Democrats were in control of the Presidency and Republicans were in control of Congress, Republicans were in favor of term limits on the Presidency; and when Republicans were in control of the Presidency and Democrats in control of Congress, Republicans become more interested in imposing term limits on Congress and less so on the Presidency.

Friedman and Wittman (1995:80)

On casual observation republicans were more supportive of term limits prior to the 1994 elections, but lost considerable interest in the idea once in the majority. (I will clarify this observation in the section on party balance below.) Moreover, in congressional voting on term limits Lopez (2000) finds statistically significant opposition among representatives who are females, democrats, more tenured, and from districts with greater net transfers, *ceteris paribus*.

#### **5. CONSEQUENCES OF TERM LIMITS:**

I now consider effects on economic and political data when term limitation is moved to the right hand side of the equation. As Bernard Grofman noted in the important collection of term limits papers that he edited (Grofman 1996a), this is not a simple question. One is confronted less by answers than by “hypotheses in search of data” (Grofman 1996b). Legislative term limits were enacted only recently, and in some of the most interesting cases (e.g., California), the laws were significantly scaled back or changed. So data on their effects are not especially prevalent. As a result, some of the evidence considered here draws from calibrated simulations. In other cases, though—usually regarding executive term limits—hypotheses have found their data and the literature stands on actual empirical observations. I will emphasize the consequences of term limits *vis-à-vis* the causes outlined earlier in the paper, but additional effects that are separate from (or at least not strictly bounded by) the causes will also be explained.

In tracing the consequences of term limits, I will take the view that term limits represent an institutional change (Landes and Posner 1975). Unlike policy changes that alter the incentive structures of economic agents in the polity, an institutional change such as term limits alters the incentive structure faced by policy makers themselves. In other words, we can expect term limits to impact pre-policy data such as the demographic, partisan, and tenure/turnover characteristics of the legislature, the balance of powers among the branches and levels of government, and the competitiveness of the election market. In turn, these changes shift the policymaking landscape, so that

we can expect to see subsequent changes in the policy data such as tax laws and spending programs. Following this cascade of effects, the consequences of term limits can be compared to the causes developed earlier in the paper, providing a basis for a positive evaluation of the net benefits of term limitation.

Before proceeding further, I must make note of two caveats. First, the effects of term limits depend on the institutional setting and on the design of the particular restriction (Cain 1996). In reading the legislative history of term limits in Congress,<sup>21</sup> I found that the most important features of design are: a) length of term; b) number of terms limited; c) grandfather specification; and d) whether the limits were lifetime or allowed “reentry”.<sup>22</sup> To illustrate this caveat, suppose reelection is a function of reputational capital, which is in turn a function of tenure. Then the effects of term limits will depend on the extant tenure profile and the functional relationship between reputational capital and tenure. Paraphrasing Cain (p.27), if average tenure is high and brand name capital depends strongly on tenure, then term limits should increase electoral competitiveness. But if the proposed term limit is high relative to average tenure, then the chain is broken. The House simulations by Reed and Schansberg (1994, 1995), which I discuss in detail presently, reinforce this point. Their results produce greatly different effects on tenure profile when the number of terms limited is changed or when grandfathering is removed. The net benefits of term limitation vis-à-vis the status quo and other reforms may depend mostly on the form that the restriction takes.

Simulation models to predict the effects of term limits introduces the second caveat, the “Lucas critique” (Lucas 1976). Simulation models calibrate past continuation rates, then forecast future tenure profiles given these same rates and a term limit. But term limits may incite changes to the underlying structural parameters that determine continuation rates. To the extent of such an effect, these types of simulations may generate erroneous forecasts. Without exception, authors of these simulated studies acknowledge this problem, as does Grofman in the introduction to his edited volume (Grofman 1994b, p.7). It is, of course, trivial to model the effects of structural changes once they are known: simply update the forecasts with the altered continuation rates. But the essence of Lucas’ critique is that structural changes are partly determined by the manner in which peoples’ expectations are formed, in addition to preferences and certain political institutions. Applying Lucas’ argument in this case, expectations depend partly on the absence of term limits, and are therefore likely to change systematically following their enactment. In brief, simulated forecasts of the effects of term limits using extant continuation rates should be interpreted carefully because there is good reason to expect the continuation rates to change systematically after term limits.

## **5.1. Impact on Political Variables:**

### **5.1.1. Tenure/Turnover Profile of Legislature:**

It is widely believed that term limits will unambiguously reduce average tenure, so long as the constraint is “binding.” In order to “bind,” the term limit must be lower than what some critical proportion of the legislature’s tenure would have been without the restriction. For example, Moncrief, Thompson, Haddon and Hoyer (1992) gather recent tenure and turnover data for the state legislatures, and find that a 12-year, no-grandfather, re-entry term limit law would end the tenure of only 27 percent of legislators in lower chambers and 36 percent in upper chambers. For state term limits laws to have a larger impact, the term limit would have to be shorter in all but the most professionalized state legislatures. Opheim (1994) then examines an eight-year, no-grandfather, re-entry law in states where such laws had already passed, and finds that, on average, over 50 percent of state legislators would be affected. According to this conventional view, the extent to which a term limits law “binds” will determine how much it reduces average tenure.

The degree of this reduction is a more complicated question, and it complicates the above answer. Legislators might anticipate the effects of term limits and leave office before their “binds.” Wayne Francis and Lawrence Kenny address this question with “early” turnover evidence at the state level. They assert two separate effects prior to reaching the term limit. First, the “indirect” effect (Francis and Kenny 1997) occurs because house members facing a term limit see a move to the senate as a natural step, which is accommodated by term limits in the senate creating more open seats there. A house member would pursue higher office before reaching the term limit if a senate seat were to open. Second, the “present value” effect (Francis, Kenny and Anderson 2000) considers how legislators perceive the marginal changes in their private- and public-sector career opportunities. If the discounted value of lifetime earnings through politics is reduced enough because of term limits, legislators would substitute into private sector employment even before reaching their maximum terms. Francis and Kenny compare extant turnover rates to turnover in 1994 and 1996, when term limits laws enacted in 1990 began to take effect and the early effects of laws passed in 1992 could be observed. They control for low extant turnover (more room to increase) and the ratio of house to senate seats. They find that a term limits dummy variable increases turnover by 4.3 percent in 1994 and 2.8 percent in 1996. And for each year closer to the limit, turnover increases by .89 and .45 percent, respectively. Higher turnover in the senate also increases house turnover in their results. Keep in mind that they examine only states that had not yet hit the term limit in 1994 or 1996. Therefore, these results are interesting because they suggest, contrary to conventional wisdom, that term limits do not have to

“bind” in order to reduce average tenure. More fundamentally, they suggest that term limits do not make legislators any less ambitious. *The main cause of increased congressional tenure, discussed in Section 2 above, would remain even though term limits would reduce average tenure.* The reason could be that term limits alter the structural parameters underlying tenure/turnover rates (e.g., legislators’ expectations), but they do not alter the parameters underlying political ambition (e.g., legislators’ preferences). Moreover, this interpretation is consistent with the Lucas critique so that these results temper the results obtained in the balance of the literature on term limits and tenure, which consists entirely of simulation studies.

I discussed the simulation methodologies of both Reed and Schansberg (1990, 1992) and Gilmour and Rothstein (1996) in section 2.1 above. These methodologies are applied to simulate the effects of term limits in several papers (Reed and Schansberg 1994, 1995; Gilmour and Rothstein 1994; Franklin and Westin 1998, Francis and Kenny 1997). These papers all employ a similar kind of geometric progression based on continuation rates. There are four reasons for a legislator to leave office: death, retirement, pursuit of higher office, and electoral defeat (Schansberg 1994).<sup>23</sup> Death is typically ignored because it is uncommon, and retirement and pursuit of higher office are typically combined as “voluntary quits.” Where  $l$  is loss rates and  $q$  is quit rates, the continuation rate will be  $r=1-l-q$ . Now suppose a term limit law is imposed at time period  $t$ . These studies gather data on  $r$  for many years prior to  $t$ , and assume these rates will remain somewhat constant. As such, they are able to simulate future tenure profiles by iteratively calculating the number of members in their  $i^{\text{th}}$  term at time  $(t+k)$ :  $N_{t+k}^i = N_t^i (r_1^i)(r_2^i) \dots (r_{t+k-1}^i)$ . Term limits can easily be incorporated by adding the constraint that  $(t+k)$  cannot exceed the maximum number of terms allowed by the particular law imposed. That is, if terms are limited to  $m$  terms, then all continuation rates after period  $(t+m)$  equal zero. (Grandfathering creates special cases. The above equation implies limited-grandfathering because it treats extant incumbents the same as members entering in period  $t$ . A no-grandfather law would mean  $r^i=0$  for  $i>m$  and for periods  $t$  and hence. A full-grandfather law would mean  $r^i=r^i$  for all time periods so long as the cohort was extant at period  $t$ .)

The simulated effects of term limits on turnover depend on which period of extant continuation rates is used. I will not here discuss the merits of one set of rates versus others, though arguments can be made. Reed and Schansberg (1994) predict the steady-state turnover to range between 11 and 15 percent in the absence of term limits. With a 12-year, full-grandfather term limit, steady state turnover increases to just above 20 percent. Limited- and no-grandfathering eventually reach the same steady state. In their later paper (1995) Reed and Schansberg expect a six-year limit to increase turnover to

37 percent in steady state. Gilmour and Rothstein predict very similar results. From **Figure 1**, it is evident that this would return Congress to a tenure profile not seen since the 19<sup>th</sup> century. Moreover, in light of Francis and Kenny's "anticipatory" effects, these steady state predictions must be considered conservative.

Political scientists have traditionally been concerned with *high* turnover at the state level because it causes inexperience and could reflect a lack of seriousness among legislators (Francis and Baker 1986). Turnover at the rates predicted above can potentially cause two problems, both related to the "superclass" phenomenon. With term limits, Congress is inundated with large waves of incoming freshmen as an equally large percentage of members reach their maximum terms. Before reaching steady state, turnover spikes at intervals equivalent to the maximum years allowed in office. Twelve years after enacting a 12-year limit, 44 percent of Congress would be in their first term, and 24 years after 33 percent would be freshmen. With a six-year limit, the superclasses would be 71 and 61 percent six and 12 years out (Reed and Schansberg 1995). The first problem with such superclasses is the low level of experience with such large numbers of freshmen legislators. Without term limits the median experience in Congress would be 10 years. With a six-year limit in Reed and Schansberg's model, the median experience level would be *one year* during and soon after a superclass. A 12-year limit is less severe, producing a median experience of seven years after a superclass. It is difficult to say how this might matter. The legislature could fail to function, be incapable of responding to emergencies, and incur unnecessary organizational and learning costs. Nothing in the literature investigates this. Superclasses might also cause a related problem: the large numbers of outgoing lame ducks, which may cause a widespread shirking problem. However, legislators do not appear to vote systematically differently in their last term, at least in the current system without term limits (Bender and Lott 1996; though see the important caveat to this result in the section on shirking below). The evidence from Francis and Kenny (1997, 2000) suggests legislators will anticipate the term limit and rotate without such spikes at six- or twelve-year intervals. It also seems intuitively implausible that competent people will not be available for office:

The notion that one can understand policy tradeoffs only after years in political office seems especially misplaced... For starters, a pool of academics study how policy is made and works; they could step into legislative work with much background knowledge. Many people outside academia have advanced training in public policy and public administration programs. Similarly, many lawyers are trained in the writing and implementation of legislation, and deal with policy questions day in and day out in their work... [M]any persons are qualified candidates for legislative positions.

Glazer and Wattenberg 1996: 44-5

Finally, it is conceivable that term limits would not decrease, and perhaps even *increase*, average tenure. The logic here is that term limits cause potential challengers to postpone running until the seat is opened by mandatory rotation. Grofman and Sutherland (1996) present a stylized model that produces this outcome. In their model, the probability of a challenger defeating an incumbent is lower than the probability of winning an open-seat election. The key feature of their model is that once a candidate is defeated (whether running against an incumbent or not), the candidate's party finds another (stronger) candidate for all subsequent election bids. If you lose once, you cannot run again. Since strong candidates will then defer until term limits create an open seat, then incumbents are re-elected with certainty at their discretion. If the conditions of their model hold, and voluntary quits are low, and the term limit does not "bind," then a term limits law could conceivably increase average tenure. Such conditions are unlikely, however. As discussed, evidence in Lott (1989) suggests that challengers use current campaigns to invest in reputation for later campaigns, and the work by Francis and Kenny (1997, 2000) suggests a term limit does not have to "bind" to affect rotation patterns.

### **5.1.2. Party Balance:**

By far the conventional wisdom during the 1990's maintained that term limits would benefit republicans and harm democrats. Democrats held majorities in Congress and most of the state legislatures; term limits would eliminate this incumbent advantage at regular intervals. Democrats are also more likely to make lifelong careers in politics, and have higher mean tenures, both of which are punished by term limitation. For these reasons, Grofman notes, many journalists accused republicans of harboring a "hidden agenda" in their support of term limits (Grofman 1996b:8). This partisan split is generally consistent with actual voting on term limits. Congressional republicans supported the 21<sup>st</sup> Amendment more than democrats (Friedman and Wittman 1995).<sup>24</sup> State-level initiatives in California found more support among republican voters (Donovan and Snipp 1994). And in the 1995 and 1997 roll calls, republicans in both chambers were far more likely to vote for congressional term limits (Lopez 2000).

Observing such partisan support for term limits does not necessarily support any speculation as to why republicans would have a "hidden agenda." My purpose in this section is to survey the predicted effects of term limitation on party balance, and from this infer an empirically plausible argument for why republicans wanted term limitation.

Geometric progression models have been used to simulate the effects of term limits on partisan balance in Congress. First, party balance is calculated at time  $t$  such that  $R_t^I$  and  $D_t^I$  are the numbers of incumbent republicans and democrats. Continuation rates are then calculated by party,  $r^r$  for republicans and  $r^d$  for democrats. If loss ( $l$ ) and voluntary quit ( $q$ ) rates differ between the parties, this

will influence the effect of term limits on each party. So patterns of exit and new entry into Congress must be accounted for, again by party. The number of *non-incumbent* republicans running for an open seat at time  $t$  is  $R_t^N = (1-q^r)(R_{t-1}^I) + (1-q^d)(D_{t-1}^I)$ . Similarly,  $D_t^N = (1-q^d)(D_{t-1}^I) + (1-q^r)(R_{t-1}^I)$ . So both parties are running new faces in seats vacated by their own and the other party—the basic nature of open-seat elections. If we know the rate of open-seat victory by party,  $v^r$  and  $v^d$ , then we can calculate the number of republicans and democrats during any  $t^{\text{th}}$  Congress:

$$R_t = (1-l^r)(R_{t-1}^I)(q^r) + (v^r)(R_{t-1}^N) \text{ and}$$

$$D_t = (1-l^d)(D_{t-1}^I)(q^d) + (v^d)(D_{t-1}^N).^{25}$$

The effects of an  $m$ -term limit imposed at time  $t$  can be easily incorporated by adding the constraint that  $q^r = q^d = 1$  for any cohort in their  $t+m^{\text{th}}$  term. (Again grandfathering creates special cases. The above would hold for the limited-grandfathering case, but a no-grandfather law would imply  $q^r = q^d = 1$  at time  $t$  for extant cohorts above  $m$  terms. Full grandfathering simply means  $q^r = q^r$  and  $q^d = q^d$  for all time periods and all extant cohorts at time  $t$ .)

By the above equations, the simulated effects of term limits on party balance depend on extant loss rates, quit rates, and also open-seat winning rates—not initial party balance and tenure as the “hidden agenda” argument would hold. Gilmour and Rothstein (1996) compare two sets of extant rates, the 90<sup>th</sup>-100<sup>th</sup> Congresses and the 98<sup>th</sup>-100<sup>th</sup> Congresses. In the 11-congress sample, democrats are better at winning both incumbent and open seat elections:  $(1-l^d) > (1-l^r) > v^d > v^r$ . But in the three-congress sample, open-seat republicans have a higher winning rate:  $(1-l^d) > (1-l^r) > v^r > v^d$ . Of great importance is that republicans have a higher voluntary quit rate over all samples ( $q^r > q^d$ ). **Table 3** summarizes their simulated results. Without term limits, the size of the democratic majority is smaller using the three-sample loss rates, in which republicans win more open seat elections. With term limits, however, Gilmour and Rothstein prove theoretically that republicans will always experience net gains under these more recent conditions (see their Theorem 4, p.782). They also simulated term limits laws of varying lengths, and found that republicans always win under extant loss and retirement conditions. For example, a 12-year, limited-grandfather, lifetime term limit will produce a steady-state with the democratic majority shrinking from 264-171 to 241-194. Reed and Schansberg (1994) also use their model to simulate steady-state party balance. Without term limits, republicans would gain a net between 22 and 32 seats (using, respectively 1985-91 and 1977-91 party-specific continuation rates). Under a 12-year limit, however, republicans would gain an *additional* 10 to 40 seats. Even simulating the model after the republicans became the majority party, republicans would still gain an *additional*

six to 12 seats (Reed and Schansberg 1995). In short, these models suggest that term limits will always favor republicans. The reasons why, however, conflict with the conventional “hidden agenda” wisdom.

Republicans benefit from term limits not because they were the minority party or because they have lower average tenure. The above results do not depend on initial tenure or party balance. Instead they are driven by the fact that republicans have a higher quit rate, and therefore lose their incumbents more often. It is possible that the reason is also because republicans win more open seat races. But the above results would even hold if both parties won equal percentages of open-seat elections (Reed and Schansberg 1995). More precisely, it is the *spread* between incumbent loss rates and open seat win rates that matters most:

It is true that each party is more likely to lose its seat in each race where its incumbent cannot run. However, the increase in the likelihood of losing these seats is not in general the same for both parties. This indicates the logical possibility that the party that retires fewer incumbents may suffer a net loss of seats if it also suffers a substantially greater increase in the likelihood of losing each race...

Gilmour and Rothstein (1994:771-2)

Republicans wanted term limits not because they were the minority party with lower tenure, but because they lose reelection more often and were beginning to win open seats more often. It has been observed that Congressional Republicans lost a great deal of interest in term limits after they had gained the majority in Congress. This analysis suggests the reason is not that they gained the majority, but that they have been doing better in their open seat elections relative to the Democrats.

### **5.1.3. Value of Office:**

*Value of Office to Legislators:* A legislators’ value of holding office is defined by the returns to that office in the market for wealth transfers. Proficiency in brokering wealth transfers is a function of parliamentary rights such as committee seats, agenda power, and leadership positions, all of which are positively correlated with tenure. So the value of holding office increases with expected tenure in office. But the value of holding office depends also on how soon such parliamentary rights are acquired and how long a member retains them. More precisely, the value of holding office can be said to increase with: 1) higher expected length of completed tenure; 2) shorter waiting period prior to become eligible for a leadership position; 3) higher probability of then attaining a leadership position; and 4) higher expected tenure in that leadership position once attained (Reed and Schansberg 1994).

The value of holding office depends on how term limits influence these four effects. On the one hand, term limits would decrease expected completed tenure. Using their methodology for calculating expected stays with truncated observations (discussed above in Section 2.2), Reed and Schansberg (1995) are able to compare expected length of completed tenure with and without term

limits. Based on 1973-94 continuation rates, length of tenure would average 13.2 years. That average would drop to 6.1 years with a six-term, limited-grandfather, lifetime limit, and to 3.1 years with an otherwise similar three-term limit. This effect decreases the value of holding office. But term limits would also decrease the wait for leadership. Without term limits, the required wait for appointment to leadership is 16.2 years. If seniority is still used after term limits to allocate leadership positions, that wait falls to 10 and 4 years under six- and three-term limits respectively. In the more likely case that seniority is not the main criterion for becoming a leader, the wait would drop even further. This effect increases the value of holding office. Thus, despite the unambiguous decline in average tenures that can be expected from the enactment of term limits, these simulations suggest that the total effect on the value of holding office is ambiguous.<sup>26</sup>

Alternatively, the value of holding office can be inferred by legislators' revealed preferences. In states that imposed legislative term limits, house turnover has increased as ambitious members run for more open seats created in their respective senates (Francis and Kenny 1997, Francis, Kenny and Anderson 2000). Representatives are demonstrating a willingness to forfeit more (and virtually guaranteed) time in the House in exchange for lower risk in pursuing a Senate seat. This implies that the reduced expected tenure outweighs the quicker path to leadership, such that the net value of holding the House office has declined after term limitation—at least relative to a seat in the relevant Senate.<sup>27</sup>

A lower return to holding office would imply that the legislators of highest marginal productivity leave. Similarly, a marginally less productive set of individuals is attracted to run for office. Whether term limits will cause a more productive set of individuals to enter the legislature depends primarily on defining legislator productivity, and secondarily on the functional relationship between term limits and productivity so defined. From the term limits debate of the 1990's, definitions of legislator productivity are largely normative in nature.<sup>28</sup> These normative arguments are largely non-falsifiable; and I will avoid any evaluation of them here.<sup>29</sup> I return to the positive aspects of this issue in the discussion of political shirking below.

***Value to External Interests: Campaign Expenditures:*** Interest groups and advocacy organizations could face higher costs in relating to legislators under term limits. Term limits might cause interest groups to face higher variance in winning policies because relationships with individual legislators and parties will be less stable. In addition, interest groups could face higher winning coalition costs due to decentralized power, less internal structure and specialization, and more frequent changes in leadership (Cappell 1996).<sup>30</sup> In this view, interest groups would have more power after term limits,

but also more responsibility for writing, monitoring, and whipping their own legislation. The value of office to these and other external interests is perhaps most easily proxied by how term limits would affect campaign contributions. If higher variance and higher costs of legislation increase the marginal value of bribery, both explicit and through campaign contributions, then term limits would increase campaign spending. An alternative view is that campaign spending is a form of investment, both by interest groups in future policies (Snyder 1990, 1992) and by legislators in future reputational capital (Lott 1989). Term limits effectively tax this investment by driving the return to zero after the maximum terms in office (assuming the legislator does not seek higher office). The available evidence supports this latter view. Mixon (1994) provides indirect support using cross-state regressions to indicate statistically fewer lobbyists per capita in states with gubernatorial term limits. More directly, Daniel and Lott (1997) use data from California elections between 1976 and 1994 to find that term limits there reduced election spending by 31 percent (from roughly \$310,000 to roughly \$215,000 per race), even with a positive and significant time trend.<sup>31</sup>

#### **5.1.4. Efficiency of Representation: The Shirking Problem**

Shirking is conventionally thought to increase with either a stronger legislator preference for shirking or a relaxation of the reelection constraint.<sup>32</sup> Thus, a given legislator may choose to shirk more after announcing his retirement, or the farther away is the date of the reelection bid, or the greater are the barriers to entry by effective challengers. Shirking may also depend on the structure of the agency relationship, increasing as slack between principal and agent increases. Term limits could alter shirking through its effect on tenure, turnover, the form of the agency problem, or the returns to holding office.

The costs of term limits associated with tenure depend firstly on the relationship between tenure and legislator productivity. It is highly implausible that this function is monotonic. Low and increasing tenure imparts parliamentary rights (representative capital) that make the legislator more productive and increase net transfers. On the other hand, high and increasing tenure erects barriers to entry that worsen the effects of Downsian ignorance and could lead to increased shirking. By historical standards, at least, Section 2 has shown that tenure is high and increasing. Therefore, the costs of high and increasing tenure are avoided with term limits, and one would predict term limits to reduce legislator shirking. As I discussed in Section 3.1. above, Reed et al. use a panel-data regression approach to investigating shirking behavior. They use regressions on panel data to try to relate shirking to tenure. If shirking increases with tenure, and term limits reduce tenure, then term limits should reduce shirking. They find no support for even the first relationship, and conclude that term limits would not have an effect on shirking. An important problem with this approach is finding adequate

proxies for the legislator's shirking preference and especially the amount of shirking chosen. These problems cause biased estimates that mask true shirking behavior (Bender and Lott 1996). So this should not be considered a conclusive result.

Shirking could be affected separately by the turnover effects of term limits. By definition, term limits increase turnover to the extent that they decrease tenure. With increased turnover will come a greater frequency of legislators serving their final term. A counter-prediction to the tenure effect emerges. Because the reelection constraint does not bind in the last term, and term limits increase the frequency of last terms, one would predict term limits to worsen the shirking problem (Glazer and Wattenberg 1996). While Francis and Kenny (1997, 2000) allay concerns about superclasses of last-term members, their results actually worsen this problem because with increased voluntary quits (pursuit of higher office) even fewer reelection constraints bind among sitting legislators. Cohen and Spitzer (1996) address this using a modified prisoners dilemma supergame in which voters and representatives reach a cooperative equilibrium. Incumbents prefer staying in office without shirking to losing an election bid, and constituents prefer keeping a cooperative incumbent to electing a freshman, especially one who will shirk. Because term limits increase the frequency of last terms, it is ensured that "a substantial fraction of members will be lame ducks, and that another substantial fraction will

(Cohen and Spitzer 1996: 57) By this theory, term limits tend to increase shirking. These last term arguments depend first on whether shirking increases in the last term. The received empirical literature on this question demonstrates this is unlikely to be the case: although absenteeism increases, legislators do not tend to vote systematically differently in their last term (Bender and Lott 1996). However, this literature is somewhat narrowly reliant upon interest group ratings of final roll call voting, such as ADA- and NTU-scores, to proxy shirking. Much of a legislator's activities, including shirking, occur prior to floor voting. So this literature uses relatively little information to derive the result that the last term effect is not real. On this evidence, the Cohen and Spitzer effect may or may not be a significant problem. Second, and more importantly, cooperation is sensitive to both players' knowledge of being in the last period. Because of anticipatory effects associated with legislators' progressive ambition, Francis and Kenny (1997) show that members in their final term will generally represent a very small percentage of the legislature (6.7 percent for a four-term limit). If this is the case, then voters and legislators are again uncertain of when the last period will be, and the Cohen and Spitzer shirking problem disappears—irrespective of the evidence on last period shirking. Finally, the model relies on an efficient electoral sorting mechanism; that is, on the unrealistic condition that there is zero agency slack.

Term limits could separately affect the *form* of the agency relationship and, thereby, shirking. Specifically, slack would likely increase. The cooperative supergame outcome in Cohen and Spitzer is characterized as an “institutional equilibrium” (1996:63). Shirking is currently policed by internal rules such as the Senate ban on government paid foreign travel after a failed reelection bid, and a one-year ban on lobbying the Senate after leaving office. But these institutions, according to Cohen and Spitzer, are endogenous to electoral rules such as term limits. Internal regulation of shirking requires a sufficient proportion of members willing to exchange last-term shirking benefits for increased tenure benefits. Because they eliminate the benefits of increased tenure, term limits would eliminate this gainful tradeoff and such policing institutions can be expected to fall by the wayside. With greater slack in monitoring, legislative shirking should increase by term limits.

Yet another avenue is for term limits to affect shirking through the returns to holding office. Term limits might reduce the reelection motive, but they *increase* the election to higher office motive. Because success in seeking higher office depends in part on owning a reputation as being productive, this increases the cost of being known as a shirker (Glazer and Wattenberg 1996). Moreover, because the value of the lower office has declined, this could attract legislators with a stronger or weaker preference for shirking.

Amid this muddled picture, Bender, Haas, and Kim (1999) offer some cogent answers. They develop an estimable stochastic model of the congress based on the microeconomic behavior of individual representatives. Each representative chooses an optimal degree of shirking in a constrained dynamic maximization of expected discounted lifetime utility. Voters, of course, provide the constraint on incumbent behavior by punishing shirking with reduced reelection probability. Should an incumbent be defeated or retire, he is replaced with a challenger whose age and shirking preferences are randomly chosen from distributions for each variable. Parameters of the model include a voters’ sorting parameter, incumbent retirement parameters, a parameter for the distribution of challengers’ shirking preferences, and one for the shirking preferences of incumbents in the initial congress. Parameters are estimated from twelve terms of data using a minimum chi-square methodology and the use of simulation (since the model cannot reach a closed-form solution for a key variable). Specifically, an initial congress is constructed based on a given set of parameter values, and the incumbents go through eleven consecutive simulated elections. The resulting simulated tenure structure is compared to the actual tenure structure of twelve congresses and the chi-square value is calculated. Parameter values are then perturbed and the construction of the initial congress and the simulations of the elections are performed until the chi-square value is minimized. When the chi-square value is minimized, these are

the parameter values of the model. The major advantages of this empirical approach are that there is no assumption that all legislators have a positive demand for shirking and that there is no use of an empirical proxy for (the not directly measurable) shirking.

The twelve simulated congresses closely fit the data.<sup>33</sup> So the parameters can be expected to generate realistic election cycles and therefore reliable predictions of the shirking effects of term limits. Beginning with the initial twelve congresses and estimated parameter values, the authors simulate fifty additional congresses with and without term limits and observe optimal shirking behavior. The term limits used are twelve- and six-year, fully grandfathered, lifetime limits (where applicable, term limits are imposed starting with the 13<sup>th</sup> congress). Their results are threefold. First, they find effects on mean tenure that are highly consistent with the findings of Reed and Schansberg and Gilmour and Rothstein discussed above. Second, they find no change in the preferences for shirking under term limits; the restriction does not draw systematically better nor worse candidates—at least where shirking is concerned.<sup>34</sup> Third, they find that the optimal choice of shirking *increases* by 60 percent under a 12-year limit, and by 120 percent under a six-year limit.<sup>35</sup>

The logic of this result is, by comparison to the empirical methodology, quite simple. Term limits relax the reelection constraint built into the model. As such, the expected costs of shirking are reduced, and the quantity of shirking increases. Shirking increases more for a six-year limit because there is even less time for voters to punish shirking—that is, for sorting to occur—and also because members have a shorter time horizon and therefore greater incentive to shirk. This is only one result, but a compelling one. It would appear that the last term effect is not the vehicle for increasing shirking, and that the pursuit of higher office is overwhelmed by the relaxation of the reelection constraint, such that the overall effect of term limits is to increase shirking. This is so even under the assumption that term limits do not attract candidates with stronger shirking preferences. It is important to keep in mind, however, that the Bender/Hass/Kim model is institutionless in the Cohen/Spitzer sense, and so it does not address the impact of term limits on agency slack.

## **5.2. Impact on Policy Variables:**

Much of the economics literature dealing with term limits treats them as a regressor in various types of models aimed at explaining their effects on *economic* variables such as state spending, taxes, public capital, etc. This empirical literature focuses primarily on executive rather than congressional or legislative term limits. Crain and Tollison (1993), for example, use a time-inconsistency model to show that gubernatorial term limits foster more frequent and more certain changes in regime, which helps to induce more use of strategic fiscal policy (i.e., more variability in fiscal discretion variables). The result

is diminished fiscal stability and, ultimately, worse economic performance. Similarly, Crain and Oakley (1995) use a strategic fiscal policy model to reveal a larger per-capita stock of public capital in states with gubernatorial term limits. Besley and Case (1995) present a thorough analysis in which term limits are the primary regressor on taxes, expenditures, state minimum wages, and workers' compensation. Their findings suggest that term limits reduce the incentive for politicians to maintain political reputation (i.e., to work hard). Gubernatorial term limits, therefore, help to increase sales taxes, income taxes and per-capita state expenditures, while they tend to decrease the state minimum wage. Crain and Johnson (2000) echo these results for chief executives of OECD countries. Unlike Besley and Case, however, they find that the effects on fiscal performance differ systematically under a single-term versus a two-term limit. In countries with a one-term presidential limit, government growth is higher than in countries without, though fiscal volatility is dampened. A two-term limit significantly increases fiscal volatility, and retards economic growth as in Besley and Case. In both studies, the reduced incentive to establish and maintain a sound political reputation drives the results in the presence of term limits. Increased fiscal volatility has been demonstrated more generally to retard economic growth (Hopenhayn and Muniaguerra 1996).

A small area of the literature examines fiscal effects of legislative term limits, but the results are comparatively weak and preclude direct inference as to the fiscal policy effects of legislative term limits per se. As discussed above, Reed et al. (1998) find weak and conflicting evidence on whether higher congressional tenure increased federal spending. Similarly, Owings and Borck (2000) find that states with professional legislatures exhibit higher per capita state government spending.<sup>36</sup> Reducing tenure, however, will not necessarily reduce federal spending, an argument to which I return below.

## **6. WILL TERM LIMITS IMPROVE EFFICIENCY?**

Much of this paper is directed at answering two related questions. First, will congressional term limits reduce federal spending and therefore enhance economic efficiency? Second, will term limits reduce barriers to entry by effective challengers and therefore enhance political efficiency? The literature speaks reasonably clearly in answering the first question, but less so on the second.

None of the research that I have studied suggests reasonable evidence that term limits would reduce federal spending by virtue of reducing tenure and thus create economic efficiency gains. In the first place, the relationship between tenure and spending is at best weak. Different studies have produced conflicting or only loosely related results. To the extent that there is a direct correlation, it is a puzzle *why* spending might increase with tenure. We simply know very little about this relationship. On the other hand, we can be fairly confident that term limits will reduce mean tenure. Moreover, with

the geometric progression simulation models discussed throughout this paper, we even have precise, though conservative, estimates of the magnitude of this change. However, we cannot, based on the literature, then predict either the direction or magnitude of the subsequent effect on spending. Redistribution (spending) is a function of relative tenure, not absolute tenure, and universal passage of term limits do not alter relative tenure. Unless the value of government to narrow interests is fundamentally changed, an electoral reform such as term limits will simply rearrange the distribution of benefits. In other words, term limits may alter the return to politicians being in office, but the value to special interests of influencing policies remains the same. If anything, in the unlikely event that term limits on legislators mimic term limits on executives, the literature shows that the fiscal effects are roundly negative and efficiency reducing. In light of these factors, the tenure-spending argument for term limits appears rather simplistic. It begs, for example, several important questions. What is the causation between tenure and spending? An increased role for Congress was the attraction for career politicians in the first place; now decreasing tenure is supposed to reduce spending? If we cannot address the endogenous properties of the relationship, we cannot predict the consequences of limiting terms on this relationship. Nor can we legitimately assume that these consequences would be beneficial. The tenure-spending argument is too simplistic. Its main practical weakness is that term limits do not combat the single most important underlying force that increased both tenure and, perhaps, spending: term limits do not make legislators less ambitious, and do not attract a less ambitious set of candidates to office. Overall, term limitation is a very uncertain instrument regarding spending.

The literature indicates that term limits and political efficiency is a more complicated issue. First, the effects of term limits on electoral competition depend at least partly on how the restriction is designed. If the term limit is too long, or if it allows re-entry into office after a brief absence, then it will not have much of an effect. Conversely, if the term limit is too short, it interferes with the ability of the election market to do its job—for electoral sorting to occur. What is needed in the design of term limits is an intermediate balance. But even here, on this simple point, is where the interesting discussion begins. The effect of term limits on electoral competition depends, less obviously, on whether the relationship between tenure and entry barriers is robust to imposing term limits. It is conceivable that, after term limits, entry barriers would increase with some metric other than seniority—namely those attributes that lead to success in open-seat elections. The creation of barriers could also shift to external criteria such as interest group influence. And, depending on the direction and manner of change in campaign spending brought about by term limits, the effects could favor incumbents, challengers, or neither. It is apparent from the California experience that term limits reduce campaign

spending. Whether this reduction enhances electoral competition is the subsequent, unanswered question. Clearly, the reduction narrows the gap between accumulated reputational capital of incumbents and low reputational capital by challengers. This suggests that term limits reduce incumbent campaign spending relative to challengers, which lowers entry barriers and makes the election market more competitive. If so, then term limitation is a redundant instrument. Why not simply impose asymmetric caps on campaign expenditures, as Lott recommends (Lott 1986, 1989)? Whether term limits and campaign finance reform are substitute measures suggests looking at the underlying sources of political entry barriers.

Gordon Tullock presented a paper entitled “Entry Barriers in Politics” at the 1965 American Economic Association meetings. Tullock argues that barriers exist because government itself is a natural monopoly.

The natural monopoly here comes from a technological consideration which amounts to a very strong economy of scale: only one majority can exist at a time. ...

The scale advantage which acts as a barrier to entry is the majority voting rule (if another voting rule is actually used, then analogous problems arise) which provides that the ‘entrepreneurial group’ which obtains half the customers can drive the other entrepreneurial group or groups out of the market.

Tullock (1965, p.459 and p.464)

Without effective competitors, in this view, occupants of the monopoly would become inefficient suppliers of government services. Competitors are dissuaded by prohibitive expected costs and risk in attempting to acquire a majority of the market. This is the same sort of political inefficiency discussed throughout the present paper. The more general question becomes: what policy, including term limits, can address this underlying source of political entry barriers?

Conventional policy options for dealing with natural monopoly are insufficient when the government itself is the monopoly. Laissez-faire amounts to despotism and is undesirable. Regulation may work and seems sensible, but would then create monopoly regulators. Finally, public ownership is redundant and public operation resists clear definition (are political parties public?). Tullock, in his hypothetical construction, instead suggests that competing parties should regularly submit proposals to consumers (voters) for the rights to the monopoly. To prevent myopic rule after the auction, bids would have to include proposals for the mix and extent of government services, how production methods would be improved, and how consumers would be treated. In short, he suggests an institutional framework much like the U.S. Constitution. This would be an improvement on laissez-faire regulation of government as natural monopoly, but two problems still remain. First, consumers in this political auction market have information deficiencies in evaluating alternative bids. This is also true of

economic markets, but Downsian ignorance exacerbates the problem when voters decide an election.<sup>37</sup> Second, aggregating preferences compounds the information problem and enables parties to discount marginal consumer-voters through obfuscation in their bids. These two problems cause the political inefficiency—in which government does not pursue voter preferences but instead the preferences of those who operate the government monopoly—to persist. Either transfers are suboptimal in quantity or composition, or the costs of creating the optimal transfers is unnecessarily high.

Considering Tullock's framing of the problem, his proposed policies, and the inefficiencies that still remain, political entry barriers go much deeper than simple matters of tenure. But the evidence surveyed by the present paper suggests that term limits will reduce average tenure. Term limits are then too shallow to effect the kind of substantive changes that motivate the arguments in their favor. Term limitation is simply not sufficiently general to impact the variables of interest associated with reducing entry barriers in political markets and thereby improving political efficiency.

Comparing Lott's and Tullock's arguments more closely suggests that properly designed campaign finance reform may be a suitable substitute for term limits. Lott (1986) explains that political entry barriers result not from brand name capital, per se, but informational deficiencies that exist in all markets. In his view, economic markets are just better at reducing information costs (Lott 1986:91). This clearly reflects Tullock's argument based on Downsian ignorance. Moreover, Tullock's policy for reducing entry barriers is to discipline incumbents with the threat of potential competition (1965: 464). Lott discusses challenger investment over time in much the same manner as Tullock. And Tullock suggests shoring up the effectiveness of challengers by paying them, which is analytically equivalent to Lott's asymmetric spending caps. While term limits may be incapable of effecting fundamental change, properly designed campaign finance reform might. Moreover, the likelihood that term limitation would affect political efficiency through its effects on campaign expenditures suggests it is at least partly a redundant reform. This would be a fertile set of questions for the literature on campaign finance and expenditures to take up.

The joint question of political and economic inefficiency is really one of the second-best (Lancaster and Lipsey 1956). Political markets apparently are anti-competitive. A globally efficient improvement would be a naturally competitive market. A second-best would be some form of institutional intervention that would push the market to behave as if it were more competitive. Economic monopolies are regulated by this underlying principle. But as with economic regulation, it is healthy to question the original causes of the monopoly power. The leading arguments for term limits have not done so. And as with economic regulation, it is necessary to estimate the effects of the

intervention, and whether it reduces inefficiency. The consequences of term limits, as laid out in the literature, are mixed in answering this. It appears unlikely that term limits can reduce federal spending and recover economic losses. If so, a more general restriction—perhaps appropriately designed campaign finance reform—is required to do so.

## **7. CONCLUSION:**

This paper has surveyed the causes and consequences of term limits and integrated the analysis into the broader economics literature in order to specify the lessons offered from term limits research. The modern interest in term limits has been based on high and increasing tenure in Congress. Tenure was stable and low until the middle 19<sup>th</sup> century, but accelerated in the late 1890's because of increased political ambition, and again in the mid 1950's and early 1970's because of increasing incumbent advantages. Term limits advocates have proposed that tenure profiles in the modern congressional era introduce inefficiencies of two sorts. First, the size of government (spending) increases with tenure, creating additional deadweight losses in the economy. Second, higher tenure enables incumbents to further insulate themselves from competition by able challengers. As in economic markets, these barriers to entry create associated political inefficiencies. Term limits would, by these twin arguments, recover both economic and political efficiencies. Partly based on these arguments, there was widespread popular support for term limits during the 1990's, subsequent enactment in roughly half the state legislatures, and enactment by 23 states on their congressional delegations. This support and enactment was sometimes seemingly irrational, as when individual states unilaterally restricted their own members, or when voters supported term limits and simultaneously reelected their own members. In response came several theories of term limits, typically with game theoretic underpinnings, assigning rationality to certain forms of support for term limits. If rational, then the consequences of term limits might be expected to be positive. This paper has identified these consequences: term limits always favor republicans because they lose reelection and win opens seats more often than democrats do. Term limits also can be expected to increase the volatility of fiscal policy and increase legislative shirking—not because term limitation worsens a lame duck effect, but because it weakens electoral sorting mechanisms. Most important are the consequences vis-à-vis the two efficiency arguments in their support. The literature suggests that term limits will almost certainly reduce average congressional tenure, even before the term limit “binds.” In this survey, however, I found that in no way does this suggest that spending will also decline. Thus, the first efficiency argument is not upheld. I found also that term limits will reduce the value of the politician holding office, but the value of that office to outsiders, namely special interests, is ambiguous. Insofar as term limits can reduce entry

barriers by reducing incumbent relative to challenger campaign spending, it is a redundancy over properly designed campaign finance reform. Thus, I have found no clear evidence supporting the second efficiency argument for term limits either.

## ENDNOTES:

<sup>1</sup> For these claims see Jacob (1996), Bandow (1995, 1996), Ferry (1994a), Armor (1994) and Coyne and Fund (1992). Garrett (1996) critiques the claims of creating a citizen legislature.

<sup>2</sup> The seminal contributions are Olson (1965), Tullock (1967), and Stigler (1971). Subsequent formal models were presented by Peltzman (1976), McCormick and Tollison (1981), Becker (1983) and Denzau and Munger (1986). Implications and empirical research within the model are discussed in Tollison (1981, 1988). Shughart (1990, ch.2) provides a succinct summary. Discussions of the interest group theory can be found in prominent textbooks in public choice (Mueller 1989), public finance (Rosen 1998), industrial organization (Carlton and Perloff 1994), and principles (Ekelund and Tollison 1998, Gwartney and Stroup 1997).

<sup>3</sup> It can take the form of social insurance (e.g., Feldstein 1998), industry regulation (e.g., Stigler 1971), antitrust (McChesney and Shughart 1994), environmental protection (e.g., Buchanan and Tullock 1975, Pashigan 1985), the tax code (Yagi and Tachibinaki 1998), formulation of budget rules (Garrett 1998), et cetera. Other forms of redistribution through legislatures are discussed in Tollison (1988).

<sup>4</sup> By contrast, office holders in other branches of their government such as the courts, the assembly, and the treasury, were hardly ever held to a specific number of terms, and were sometimes explicitly allowed unlimited terms.

<sup>5</sup> The interested reader can trace the intellectual heritage of the American founding, including the concept of rotation in office, in Bailyn (1967). See also Richard (1994).

<sup>6</sup> The framers' original intent on term limits has been the subject of a prolific debate among legal scholars surrounding the 1995 Supreme Court decision in *U.S. Term Limits v. Thornton*. The ruling struck down states' term limits laws as unconstitutional additional requirements for holding office. As a result, this body of work focuses the question of original intent on the Qualifications Clauses, and offers little on what the founders expected term limits to accomplish, much less why the framers excluded term limits from the final document. (Price 1996). It remains a very interesting and unanswered question.

<sup>7</sup> McGuire and Ohsfeldt (1984, 1986, 1989) present econometric studies of delegate voting and ratification of the constitution. Their thesis and methodology provide a model for a rational choice approach to the issue of term limits. Londregan (1999) empirically examines strategic voting at the federal convention of 1787.

<sup>8</sup> The seniority allocation of committee assignments has ebbed and flowed into and out of prominence. In general, see Polsby, Gallaher, and Rundquist (1969). Early congresses had only the Committee of the Whole. With the emergence first of the Ways and Means committee and then others, the Speaker typically exercised complete discretion. As early as the 1860's this discretion began to wane as seniority determined increasingly greater numbers of posts. Kernell (1977) argues ideological differences arising within political parties at the turn of the century left party leadership an ineffective means of allocation. After the 1910 revolt against Speaker Cannon, seniority was the exclusive medium of allocating chairmanships (Polsby 1968:161), which extended to committee assignments in general and persisted until 1974. Modern political science and economics has researched the committee assignment process in detail. For an updated survey of that literature and microeconomic treatment of the assignment process, see Grier and Munger (1991), Coker and Crain (1994), and Leighton and Lopez (1999).

<sup>9</sup> The other statistics include longer stays prior to accession to Speaker of the House, less horizontal movement into leadership positions, and fewer mean years between retirement from the speakership and death, all at the end of the 19<sup>th</sup> Century.

<sup>10</sup> Three months after the signing of the Sherman Act, its chief proponent introduced tariff legislation popularly known as "The Campaign Contributor's Tariff Bill." For a discussion of antitrust and protectionism as substitute policies, see DiLorenzo (1985). See Shughart, Silverman and Tollison (1995) for regression analysis providing evidence of a complementary relationship.

<sup>11</sup> Kernell's discussion of rotation (1977:675-9) is engaging. For example: "[R]otation was not always based on geography. In some districts rotation appears simply as a convenient way of allowing aspiring politicians to gain experience and exposure for future elections to state offices. In a few areas the rotation period was a strict "one term and out. Oregon followed this prescription without exception until the twentieth century, and Lincoln's career, as well as the nation's history, may have looked far different had local rules not forced him out of the office requirements disallow recounting such interesting details, but Kernell's article is highly recommended to the interested reader.

<sup>12</sup> This is my own interpretation of the model. Gilmour and Rothstein may find fault with this simplification. I also use my own variable names for consistency with later parts of this paper.

<sup>13</sup> This is taken from Reed and Schansberg (1992), equation (2).

<sup>14</sup> This is a reproduction of Reed and Schansberg (1992) Table 2. For fuller explanation of these values, see particularly the discussion surrounding their Equation 4 and their Table 3.

<sup>15</sup> Payne reasons that this is a function of the environment in which legislators are immersed: from all directions they are laden with pressure to increase spending. With more time in this environment, voting to increase spending becomes routine; hence, tenure should be positively related to spending.

<sup>16</sup> This constitutes a social loss only if those districts experiencing losses outweigh those districts that experience gains.

<sup>17</sup> Though Wittman (1989) makes a counter claim.

<sup>18</sup> Note again the proximity of this idea to political shirking. Lott's model, which builds on Peltzman's (1976) theory, is more involved than this simple abstract, particularly in understanding the incumbent's return to holding office. But I cannot explain the details of the model without going on for some length. The essential point made in the text is adequate for current purposes.

<sup>19</sup> Though see Landes and Posner (1975) for an exception to this, saying the independent judiciary establishes durability to wealth-transferring contracts even in the presence of a Congress whose membership turns over.

<sup>20</sup> The incumbent reelection rate has exceeded 90 percent in all elections since 1990. Opinion polls indicate supermajority support for term limits among voters (Moore et al. 1994). And term limits initiatives/referenda passed 22 of 23 times in the 1990's, typically by margins of 2-to-1 and as high as 3-to-1 (Ferry 1994b).

<sup>21</sup> For House legislative history see H.J.Res.2, H.J.Res.73, H.Rept.104-67, H.Rept.104-82, 104Cong.Rec. H3553 ff., H3885 ff., H.Rept.105-2, H.Rept.105-4, 105Cong.Rec.E69 ff. For Senate legislative history, see S.J.Res.21, S.Rept.104-158, 104Cong.Rec. S3769-86, S3805-17, S3864-80.

<sup>22</sup> "Full grandfathering" completely exempts extant members; they can serve as many terms as they and their voters like. "Limited grandfathering" does not count the terms already served by extant members toward the term limit. "No grandfathering" applies the terms served toward the limit, so, for example, upon enactment of a six term limit, all members with tenure greater than six terms would immediately be forced out of office. See Schansberg (1991) for a good discussion. On reentry, see Reed and Schansberg (1994), p.81, footnote 6.

<sup>23</sup> Compare Schansberg's (1994) work on the U.S. House to Francis and Baker (1986), who offer more specific explanations for voluntary quits from state legislatures: ambition for higher office, increasing career and familial opportunity costs, dissatisfaction, and health/age.

<sup>24</sup> Kenny and Rush (1990) find similar partisan bias on a similar vote when democrats supported the 17<sup>th</sup> Amendment far more than republicans.

<sup>25</sup> This is a simplified version of the model in Gilmour and Rothstein (1994). I have changed their notation to be consistent with mine.

<sup>26</sup> On these calculations, Reed and Schansberg conservatively assume leaders spend only one term in a leadership position. In a comment on this paper, Jacobson (1995) notes that this assumption means 70 percent of the congress will never reach a leadership position.

<sup>27</sup> The tradeoff requires there be a sufficient ratio of higher to lower offices. The effect can be reasonably expected in state houses because movement to state senates has many opportunities. Likewise, movement to the U.S. House, and further to the U.S. Senate has many opportunities. But once in the U.S. Senate, for example, there are not so many higher offices to pursue. These indirect effects probably would not obtain.

<sup>28</sup> First among these normative views is the ideal of the "citizen legislator," in which Congress is forced by term limitation to return to its pre-professional era and work toward the public interest. Congress would be populated not with political careerists but with ordinary citizens in the mold of Cincinnatus, answering the call to public duty, serving a short period of time, and then returning to their private sector lives (Petracca 1991, Bandow 1995, Coyne and Fund 1992). A citizen legislature would engender policies closer to ordinary citizens' interests and restore Congress to its founding role as the body of deliberative governance (Will 1992). Second, one can argue without eschewing political ambition that term limits give politicians the incentive to work in the public interest. Glazer and Wattenberg (1996) use a conventional Olson/Stigler model of representation to show that without term limits the frequency of legislators proposing general interest legislation is approximately one-third the social optimum. But with term limits, a member must pursue higher office to remain in politics. He therefore must, while in current office, work to establish a broader constituency, and will favor general rather than parochial policies on

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the margin. Third—a variant of Payne’s “culture of spending” argument—high tenure in office creates “legislative contamination,” which leaves politicians jaded and apathetic to seeing bad policies passed (Cain 1996: 25-6).

<sup>29</sup> Although Garrett (1995) counters the citizen legislature point by arguing that initial investment in political capital increases the value of remaining in public office, and, indeed, that the only way to receive the return on such investment is to remain in public life.

<sup>30</sup> This argument is laid out in the context of the California legislature; I take full liberty in extending the argument to Congress. Cain (1996:29) argues that the effect depends on whether the contributor is a moneyed interest group or a public sector / public interest lobby group or policy institute.

<sup>31</sup> Their measure is defined as: “total expenditures by all candidates in either the general or primary elections” (Daniel and Lott 1997: 174).

<sup>32</sup> For a survey of the shirking literature see Bender and Lott (1996).

<sup>33</sup> The authors compare these simulated congresses to actual data, and fail to reject that there is no statistical difference. “In order to give an idea of how the model in general performed, the mean probability of continuing in office is 0.844 for the twelve simulated congresses, which compares favorably to the mean probability of 0.839 for the twelve congresses that comprise our data sample.” (Bender, Haas, and Kim 2000: 31).

<sup>34</sup> The mean incumbent taste for shirking is .26, while the mean for challengers is .21. Over time, because the limit is lifetime and/or because of sorting, the congress’ mean taste for shirking will be upper bounded by the mean of the challenger distribution. Therefore, the estimated value for shirking taste does decline over time. It just does not decline more or less under term limits.

<sup>35</sup> When the simulations are run again assuming uniform distribution of challengers’ preferences for shirking, the effects are: tastes for shirking increase by 120 and 110 percent, and shirking increases by 500 and 600 percent under 3- and 6-term limits, respectively. Both of these results are affected by an assumption about the challengers’ shirking preferences. By construction of the model, the distribution of preferences for shirking in the challenger population is not affected by term limits. This is a strong assumption because term limits will reduce the returns to challengers with low taste for shirking relative to challengers with high taste for shirking. It is this very assumption that biases downward their calculated degree of shirking under term limits, and that makes the increase in shirking under term limits such a strong result.

<sup>36</sup> Their measure for “professionalism” is a continuous {0,1} index based on legislative compensation, expenditures on staff, and length of legislative session, relative to the U.S. Congress. Full explanation can be found in their paper.

<sup>37</sup> It is easier and more important to evaluate one’s own basket of goods and alternative suppliers than the array of political goods, of which one consumes only a fraction, assembled in party platforms. Additional uncertainty arises because economic bundles are typically evaluated retrospectively (the goods have already been produced), whereas party platforms must be evaluated prospectively (promises about future policies).

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Figure 1: Turnover in Congress, 1789-1997

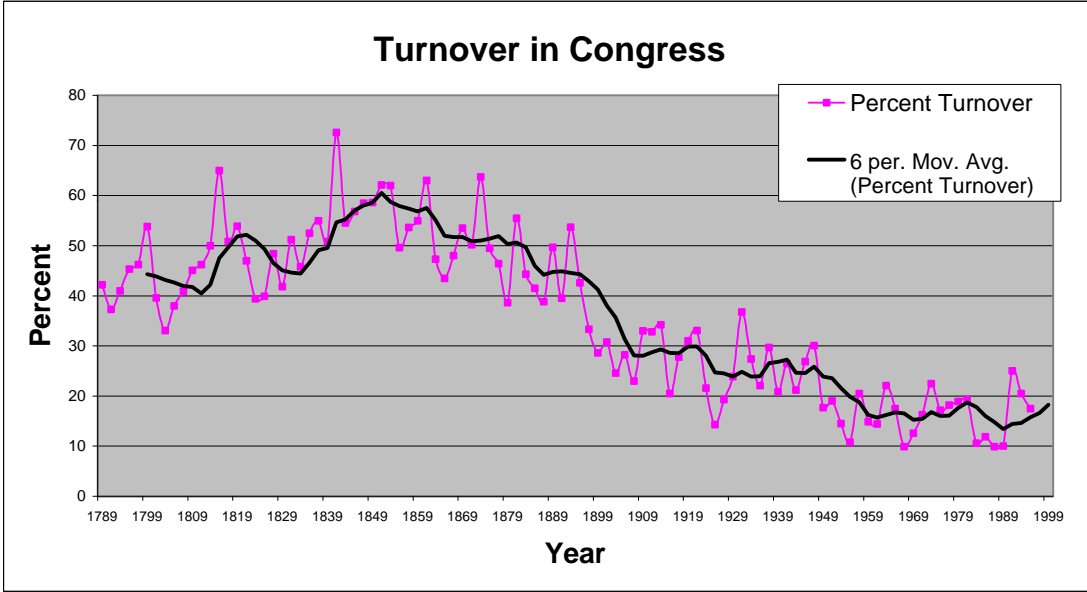


Figure 2A: Turnover in Congress, 1869-1911

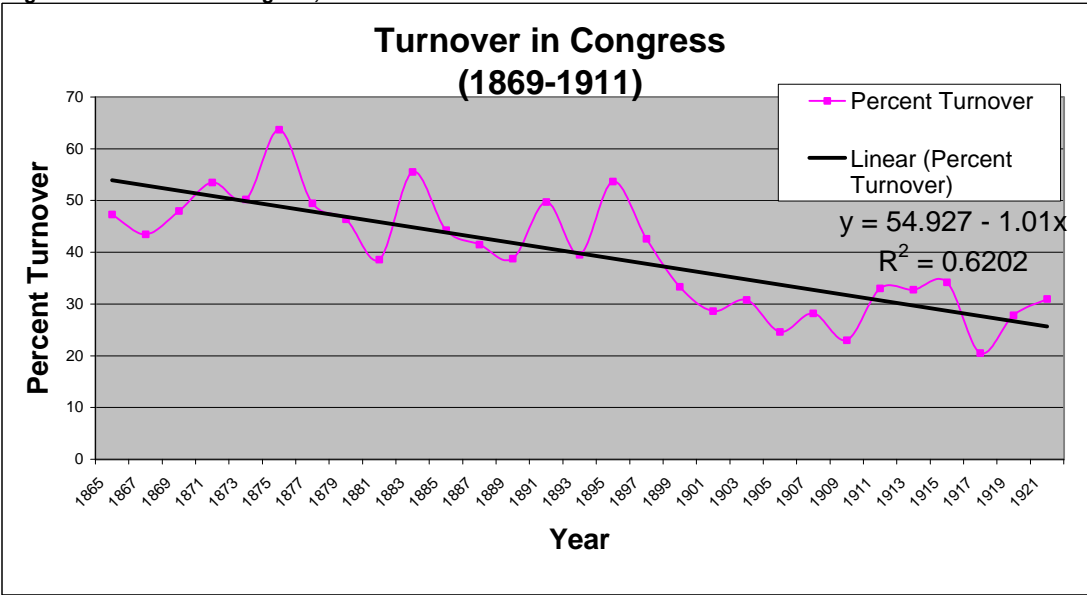
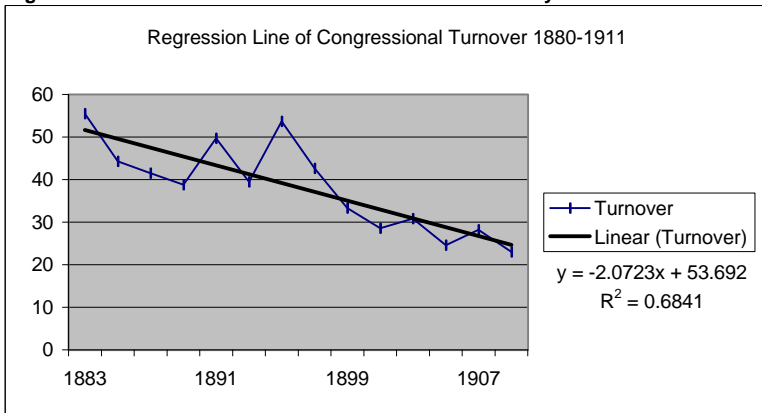


Figure 2B: Time Trend of Turnover at Turn of 20th Century



**Table 1**  
**Chronology of Action on Congressional Term Limits**

<b>Date</b>	<b>Location</b>	<b>Action</b>
11/90	CO	Voters approve initiative imposing term limits on congressional delegation.
11/91	WA	Voters reject initiative imposing term limits on congressional delegation.
3/92	ID	State legislature passes statute recommending Congress propose Article V amendment to limit congressional terms.
11/92	<sup>1</sup>	Voters in 14 states approve initiatives imposing term limits on congressional delegations.
2/94	WA	Federal District Court rules state's term limits law unconstitutional.
3/94	AR	State Supreme Court rules state's term limits law unconstitutional.
5/94	UT	State legislature passes and governor signs statute imposing term limits on congressional delegation, making Utah first state to do so.
5/94	NE	State Supreme Court rules state's term limits law unconstitutional signature requirements.
10/94	OK	Voters again pass term limits on congressional delegation.
11/94	<sup>2</sup>	Voters in seven states approve initiatives imposing term limits on congressional delegations.
11/94	U.S.	Republicans win control of Congress. Term limits part of "Contract with
1/95	U.S.	House and Senate hold hearings specifically on term limits.
3/95	U.S.	House conducts first-ever floor debate on term limits. Rejects constitutional amendment.
4/95	NH	State becomes 23 to imposed term limits on congressional delegation, only second to do so via state legislative statute.
5/95	U.S.	United States Supreme Court rules Arkansas term limits law unconstitutional, effectively nullifying legality of all 23 state laws.
10/95	U.S.	Senate conducts non-binding "Sense of Senate" vote, rejects term limits 45-49.
4/96	U.S.	Senate conducts floor debate on constitutional amendment. Motion fails cloture vote 58-42, two short of requisite 60 to close debate.
11/96	<sup>3</sup>	Voters in nine states pass "Informed Voter Laws."
11/96	U.S.	Republicans retain control of Congress. Promise term limits vote.
1/95	U.S.	House conducts hearings on term limits.
2/97	U.S.	House conducts floor debate, rejects constitutional amendment to impose term limits.

<sup>1</sup> AZ, AR, CA, FL, MI, MO, MT, NE, ND, OH, OR, SD, WA, and WY

<sup>2</sup> AK, CO, ID, ME, MA, NE, NV

<sup>3</sup> AK, AR, CO, ID, MO, ME, NE, NV, and SD.

**Table 2**  
**Increase in Expected Tenure Post-1975**  
**As Calculated by Reed and Schansberg (1992)**

<b>Continuation Rate Used as Substitute</b>	<b>Party</b>	<b>Year Entered</b>		<b>Pct. Change (3)</b>
		<b>1953-75 (1)</b>	<b>1977-89 (2)</b>	
<b>1977-91</b>	Democrats	12.67	14.66	+15.7
	Republicans	10.56	12.26	+16.1
<b>1985-91</b>	Democrats	13.31	19.16	+43.9
	Republicans	10.67	13.11	+22.9

**Table 3**  
Democrat-to-Republican Seats:  
Steady State With and Without Term Limits

<b>Extant Loss Rates Used</b>	<b>No Term Limits</b>	<b>Six-Year Term Limit</b>
90 <sup>th</sup> -100 <sup>th</sup>	264-171	241-194
98 <sup>th</sup> -100 <sup>th</sup>	242-193	not reported

Retirement Rates Used: 90<sup>th</sup>-100<sup>th</sup> Congresses