

OH 2020
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Term Limits and Modifications to Primary Elections

History

- Athens and Rome had term limits on many offices
- Frequently term limits come and go, are relaxed or tightened
- In the Wikipedia article Term Limits, there is included a list of reduced term limits currently world-wide. It is not a coincidence that, as a country becomes more authoritarian, term limits for President are removed or increased.
- Examples- Brazil, South Korea, China, Russia.
- Sometimes term limits are increased. President of Cuba, Governor of California

Pros of term limits



Anti Term Limits



Term Limits are very popular with voters

- Many states with citizen power to put propositions on the ballot have instituted term limits that way
- There has been much discussion in Illinois but almost any change to the Illinois Constitution would have to be put on the ballot by the Legislature

Academic research says there are a lot of reasons why term limits don't have major impact

- There is some evidence that term limits on legislative members:
 - Increase polarization
 - Weaken legislatures vis a vis Executive
 - Don't reduce campaign spending
- The National Center for State Legislatures has a list of case studies of impacts on states after term limits were imposed





Discussion

Term limits in the United States

- “Perpetual Incumbency” was not nearly as common in the 19th century; it became more common as a result of direct primaries and other reasons
- During the 19th century, nomination rotation was a common political practice.
- Even if there was no official term limit, because of voter expectations of limited terms, officeholders frequently limited their terms, instead often running for another office.

For example, the 19th century Illinois Constitutions limited County officeholders to 1 4 year term. It was not uncommon for Sheriff and Treasurer to switch offices every 4 years.

Presidential Term Limits

- The 22nd Amendment, approved in 1951, limits Presidents to 2 4 year terms
- Before that, only Ulysses Grant and Theodore Roosevelt tried for a 3rd term and only FDR was successful
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Congressional Term Limits

By 1995, 23 states had some term limit provision for members of Congress

- In 1995, in *US Term Limits, Inc. v. Thornton*, the US Supreme Court held that states could not impose term limits on their Congressional members
- This result can be overturned only by a Constitutional Amendment
- Such a resolution was introduced into the Senate in 2019. There are a number of YouTube videos of Senators testifying pro and con.
- Realistically, $\frac{3}{4}$ of Congress is never going to vote for such an amendment

US Supreme Court term limits



Constitutional Language

- Article III, Section 1
- The judicial power of the United States shall be vested in one supreme Court and in such inferior courts as the Congress may, from time to time, ordain and establish. The Judges, both of the supreme court and inferior courts, shall hold their offices during good behaviour, and shall receive, at stated times for their services a compensation which shall not be reduced during their continuance in office

Proposal for Staggered 18 year terms

- Vacancies every 2 years so each President could select 2 justices
- Average tenure increased from 15 years prior to 1970 to 26 years 1970-2020

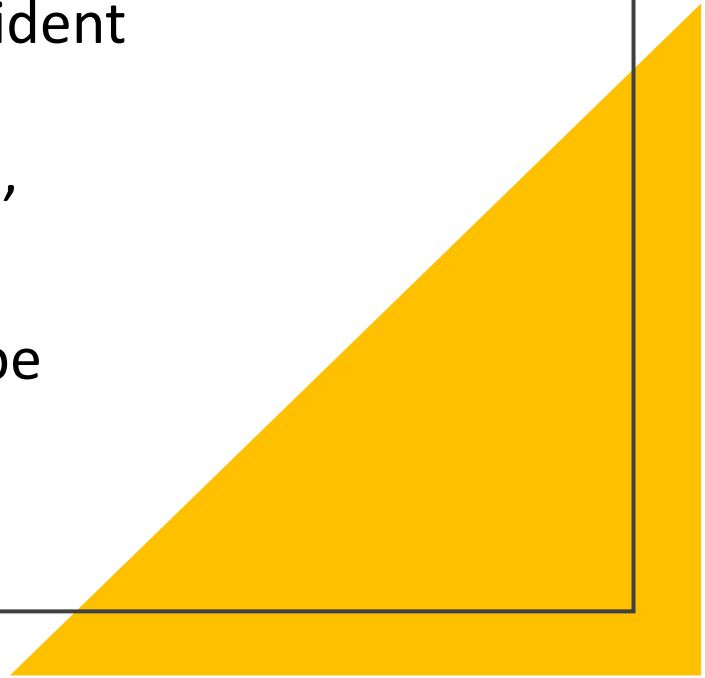
Life tenure allows justices to time their retirement to benefit their favored political party

Increased terms lead to perception justices are less accountable to democratic forces

Because of the stakes, each opening becomes an enormous political fight

It isn't so straightforward

- What if Senate and President are different parties- the Senate could refuse to confirm any, in hope of next President of their party having 4 appointments
- Looking back at the composition of the Courts over time, there has been approximately the equivalent number of Democratic and Republican appointments as time in Presidential office would imply- so is there problem to be fixed?



Only a Constitutional Amendment?

- Some scholars think only a Constitutional Amendment could impose term limits on Justices
- Others think there are work-arounds. Term limited Justices could be assigned to Courts of Appeal so they would not be forced to retire, just have different assignments



Discussion Of term limits

- Extremely popular, but not a lot of evidence in the legislative setting that it results in changes

Modifying Primary Rules

A way to create change?

Description of different kinds of primaries



When did primaries become the most common way to select candidates?



Different kinds of primaries

- Closed- Voter must be a registered member of the party on election day
- Semi-closed- Voter must declare party affiliation but can change it on election day. (Illinois)
- Open- voters get a ballot with all party primaries, they can pick any party primary in the voting booth, but can only vote in one or their ballot will be rejected(allegedly can be manipulated by raiding)
- Blanket- all candidates for an office, regardless of party, are on the same ballot. “Jungle” primary. Louisiana for a long time, Washington since 2008, California since 2012

Primaries are a public- private partnership

- Blanket primaries – if one person receives a majority, they win. If no majority, the top two advance to a run-off.
- Subject to unpredictable consequences, leading to confusion among voters about who to vote for

Top 4 blanket primaries are being proposed in some states- reduces strategy voting

Can be combined with or be an alternative to instant runoff

Meant to improve access to elected office by a wider pool of candidates

Discussion



Thanks to all of you and OLLI

I've learned a lot, hope you have too. And a special thanks to Casey Sutherland