

TERM LIMITS: REFORMING OUR GOVERNMENT

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Bill James is a modern-day hero and the progenitor of baseball sabermetrics. A useful bit of thinking from the head of Bill James, applicable to employee management as well as baseball, relates to the distribution of baseball talent. We know that almost any naturally-occurring phenomenon, like the human abilities to do a series of math problems or sing the "Star Spangled Banner" or sell hot dogs door-to-door or play baseball, occurs in such a way that a graph of its distribution over the population forms a bell-shaped curve, like this [chart]. Keep listening. James points out that the ability of major leaguers to play baseball, however, does not fit a normal bell-shaped curve; major leaguers represent the far right-hand end of the population's ability to play baseball [chart]. Way over here are Babe Ruth and Ty Cobb and Stan Musial; farther left are lesser stars like Travis Fryman and Cecil Fielder, and here are the common, marginal major leaguers, those just above the cutoff line separating them from the minor leagues. Over here are all of us people of normal ability who ever picked up a bat or glove, and over here are the rare examples of people who don't care about baseball and other feeb.

But let's look at the line separating the majors from the rest. Traditional baseball wisdom has it that some special value resides in "established veteran" players, and that the poorest veteran major-leaguer is separated from the riff-raff of the minors by a wide talent gulf. A look at the bell-shaped curve, however, suggests otherwise -- that there exists a wealth of talent virtually equal to "replacement-level" major leaguers. And, in fact, the great baseball managers -- Casey Stengel, Earl Weaver, Dick Williams, Whitey Herzog -- have recognized and utilized this concept for many years, and a large measure of their success can be attributed to their willingness to give new "unproven" talent a chance to replace weak, lazy, or divisive major leaguers.

For each of us who are employers, the same message applies: for any level of job responsibility or talent, there exists an available pool of replacement alternatives. If a valuable team member leaves for some reason, nobody need panic. If an employee is performing poorly, there is no reason, short of blackmail or family obligation, to detract from everybody else's efforts by keeping the slacker on the payroll.

Which brings me, finally, to my main topic, congressional term limits. We all do employ representatives who, as a group, perform abominably, and we have effectively allowed these employees to write themselves lifetime no-cut contracts. I believe that the interests of the nation, and of American citizens, would be better served, and that Congress would function more effectively and with more long-term orientation, if

Congressmen were limited to two four-year terms.

Term limits are not a new idea. Term limits for Congress have been endorsed by the likes of Thomas Jefferson, Abraham Lincoln, Harry Truman, Dwight Eisenhower, and John Kennedy. Our founding fathers aimed to create a government that would serve the people and withstand the evils of tyranny and bureaucracy, but did not include term limits because the earlier Continental Congress had been unable to enforce them. They scheduled House of Representatives elections every two years, so that legislators would be readily removable from office. They had seen citizens enter public office and quickly assume the trappings of royalty, and insisted on frequent elections to expose and replace tyrants before they became entrenched.

The ideal of a citizen Congress is a valuable one. We are a nation blessed with independent thinkers and strong, successful leaders; we have a broad and deep talent pool -- not just lawyers, but business leaders, educators, professionals. And, as a nation, we possess a huge number of intelligent, achieving people deeply concerned about current events and the long-term future of our children and their children. People actively and intimately involved with real life in the real American world have much to offer that career officials sheltered in Washington cannot match. Our founding fathers recognized these inherent values, and tried to construct a governing system which would be composed of and responsive to the people.

For over a century, this system worked well. Congressional elections were lively events which excited public interest. Throughout the nineteenth century, large-scale turnover characterized each new Congress. Usually, 40 to 60 per cent of each Congress was composed of new members. In 1852 64% of the members of the House of Representatives were newcomers; in 1894, half of the House members were freshmen. Most Congressmen were not career legislators or bureaucrats, but were private citizens who left their private careers to spend several years in Washington and then return home. The great Henry Clay, who served seven terms in Congress, did it in six separate segments.

But, as transportation, urban comforts, and investment opportunities improved life in Washington, life as a congressman became more attractive as a career. The year 1900 was the first in which incoming members of Congress averaged more than four years of prior experience, and the trend has never looked back. In 1916 less than 20% of the House was made up of newcomers, a record low at the time. By 1929, the average member had served more than 8 years in Congress. Membership had become institutionalized.

Following FDR's four terms, Congress passed a constitutional amendment prohibiting any president from serving more than two consecutive terms in office. A similar amendment of a 12-year limit on Senate and House tenure, with 4-year House terms, was proposed by Senator Lee O'Daniel and supported by Truman and Eisenhower. It was defeated 82 to 1.

In the 1960's brought high-tech efficiency, mushrooming staffs, and lavish new office buildings to the Capitol. At the same time, and inevitably tied to the careers of long-term legislators, downtown D. C. filled up with legions of lobbyists and trade associations trading future considerations for favored influence.

During the 1960's, more than 91% of Congress sought reelection, and in 1969, for the first time in our history, over 90% of the members taking office had taken it before.

As late as 1980 it was still possible for challengers to mount vigorous campaigns, because political action committees still supported challengers with about half of their total contributions. During the 1980's, however, major PACs came to understand the retribution downside of opposing incumbents; by 1990 less than 5% of total PAC contributions went to challengers.

In the four congressional elections from 1984 to 1990, 97% of all incumbents were reelected, dominance unprecedented in American history. The average congressperson had served 12 years in Congress. The chairmen of the 13 subcommittees of the House Appropriations Committee average 30 years in office! We have developed a Congress in which getting elected confers job security tantamount to that of Great Britain's House of Lords; we live in the Age of Imperial Congress.

How, and why, have our government representatives become so immutably entrenched? Is it because we are so uniformly happy and powerfully impressed with our representatives' performance? I don't think so. Respect for and approval of Congress is abysmal. William Frenzel, former U.S. Representative now at the Brookings Institute, says, "the turnover that supplied vitality and inhibited rigidity on the early days of Congress is gone, a victim of the incentives of the seniority system, and more recently, of sure election." Congressional accountability is dead.

The truth is that our modern congressional elections are rigged, much in the way elections used to be rigged in the Soviet Union, except that in the United States, the only party with a chance is the Incumbent Party. Incumbent congresspersons exercise overwhelming, insurmountable advantages in election campaigns. Our tax dollars support armies of

staffers who work continually, often solely, to keep their incumbents' names and visages in front of their constituencies. Tax dollars pay to send a barrage of newsletters, surveys, and "personal" correspondence to the home district, utilizing computerized demographics and the Autopen. Elaborate networks, funded by us, work to disburse favors to constituents at home, in the name of the incumbent. Media coverage, most often directed and filmed in perfected clips at the congressional studios, which we pay for, keeps his or her smiling and wise face in the TV and printed news. Only congressmen can engineer pork barrel funding of projects and studies which enrich voters back home, particularly in election years. And finally, incumbents have the clout to attract, buy or extort PAC and special interest contributions which can almost never be matched by a challenger.

The result is that competitive congressional elections have become rare. 97% of incumbents running for reelection get reelected, and their margins of victory have been increasing. Being defeated in an open, competitive election is the sixth and least likely reason for congressional turnover, following voluntary resignation, appointment or election to higher office, death, loss to reapportionment, and disgrace due to arrest or corruption or scandal. Losing a real election is less of a risk to today's congressmen than any of these five. The American people have discerned this truth, and clearly understand the harsh joke which congressional elections generally represent, and have lost interest. We have no choice. Once elected, our congressional aristocracy are effectively beyond our control, and hold office until they choose to give it up.

In such an established environment of congressional careerism, a system has evolved in which longevity in office, not excellence or leadership ability, is required to gain power, and in which longevity in office guarantees power. A newly-elected congressman, no matter how gifted, cannot expect to make any rapid impact. Only by being repeatedly reelected can a congressman become significant. Only by patiently sitting (not necessarily contributing) on committees can a legislator gain influence and power. Those who want to buck the old-boy network and fight the special interests become frustrated and leave. One former congressman calls this Gresham's Law of Politics: bad legislators outlast and drive out good ones.

I'm sure that the seniority system of power in congressional committees has its advantages (for us, not just for congressmen). But excellent examples of the monstrous effects of our congressional seniority system abound. 83-year-old Jamie Whitten, a Mississippi Democrat, entered the House of Representatives before Pearl Harbor. He became Chairman of the House Appropriations Subcommittee on Agriculture and Rural Development in 1949, and has used that chairmanship to acquire legendary power as the de facto "permanent secretary of agriculture." He

has outlasted eight presidents and eighteen secretaries of agriculture, and has successfully blocked all of their efforts to reorient agricultural policy and move it away from anachronistic, lavish subsidies implemented during the '30's. Whitten's own district, of course, continues to be showered with subsidy payments, soil preservation and reclamation projects, water projects, etc.. His subcommittee hearings are renowned for their brevity and the mumblings of Mr. Whitten as he guides pork-barrel projects out the door. He has described his philosophy of government in these blunt terms: "All any one ever wants is a special advantage over the next fellow. Understand that, and you've understood the intent of every law ever passed." In 1979 Mr. Whitten's seniority made him chairman of the Appropriations Committee, a position of unchallenged power and authority in determining how the U. S. government spends much of its money. At last check Jamie Whitten was still in his seat.

In 1981 three House members became chairmen of key committees: Dan Rostenkowski became chairman of Ways and Means, Kika de la Garza of Agriculture, and John Dingell of Energy and Commerce. Since then they have held a hammerlock on the public policy issues under their jurisdiction. Such committee chairmen function not as moderators of discussion, but as princes ruling their estates. They exercise enormous leverage, and have bullied and pushed and finagled constantly to expand the authority of their committees. They have wrested chunks of turf from the executive branch of government, involving themselves in micromanagement as much as policymaking. Each of these men secured his power largely by virtue of seniority, not merit; they had to serve an average of twenty-one years before their turns came to bat. Thirteen years and three presidents since taking power, these committee chairmen serve on, and on, and on. Unsurprisingly, they and other chairmen are often more interested in protecting their hard-won turf than in pushing through a substantive agenda. Legislative gridlock owes much to these men and to the seniority system of congressional leadership.

Long careers in Congress have fostered a Washington para-congressional organization of power and privilege -- influence, inside tips, gifts, entertainments -- all dependent on the understanding that such enticements will pay off over the long run. And the longer our career congresspersons operate in Washington, the closer and stronger become their relationships with the monied interests working to achieve their ends through the senators and representatives they court.

The direct consequence is that our elected representatives quickly learn to make reelection, not issues and lawmaking action, their business. Their working days, and the decisions made in dealing with lobbyists as well as issues, become oriented to reelection. I really believe that many, if not most, congressmen start out with high hopes for themselves to make

some positive impact on the course of our nation's future. They do, I think, have ideals, and care about issues. Inevitably, however, the pressure to continually work toward reelection conflicts with the long-term substance of ideals. Individual congressmen are pushed in this same direction by their political parties as well, who, because of the political power and party value accumulated through long congressional careers, treat each congressional office as a fiefdom to be defended and retained.

Perhaps the greatest cost of this constant campaign for reelection is its direct negative impact on legislative attention to governance and long-term policymaking. Hard decisions, which might be unpopular in the short run at home, are avoided like the plague. Real issues, problems of substance and complexity, are deferred into eternity while they are "studied" instead. The efforts of our "elected aristocracy" become devoted instead to pork-barrel funding schemes, fluff legislation, and other short-range decisions calculated to heighten political popularity. While 97% of incumbents get reelected, 97% of bills they propose never become law, and most of those that do are meaty decisions such as making April National Asparagus Month. From high hopes and strong beliefs our congressmen turn, ever so predictably, to developing the currency of reelection and the accumulation of power.

And power corrupts. Congress is an excellent example.

As I said, I believe that most newly-elected freshmen congressmen go to Washington carrying ideals and political philosophies with which they hope to address substantive issues. The problem is that, in the face of the fantastic privileges and power of office and the inertia of the congressional machine, ideals and good intentions tatter, fade over time, and are subdued.

Abraham Lincoln said, "If our American society and United States Government are overthrown, it will come from the voracious desire for office, the wriggle to live without toil, work and labor."

The day a new House member arrives on Capitol Hill, he is given the "perk book," the Congressional Handbook. Its 400 pages are filled with detailed information about how to send millions of letters to constituents free of charge, how to spend generous travel and office allowances, how to hire offices full of paid staffers, how to bring home federal grants, and myriad other perks. Since 1961, when John Kennedy was President, the number of congressional staffers has tripled. Congressmen travel around the globe on taxpayer-financed private jets, pay personal expenses out of campaign funds, work in lavishly decorated offices, eat subsidized meals, ride in free chauffeured limos. The Hart Senate Office Building has a marble gym with massage tables, indoor pool, handball court, and a "dummy"

office with desk, phone, and fake bookcase in case a photo of a busy member is suddenly required. Congress has set up the apparatus to approve virtually unlimited funding for their own ease and entertainment in its House Administration Committee, and the combination of gigantic staffs and TV campaigning allow ample time to enjoy the privileges that take time -- the government-expense global junkets and opulent receptions. And Congress has the greatest privilege of all, the privilege to write its own rules.

But the really prized perks are unofficial, non-governmental. They are the enticements and payoffs contributed to our legislators by lobbyists, special interests, companies, law firms, unions, and professional societies. Congress controls nearly \$2 billion a year in spending and loan guarantees, not counting the half-trillion in private spending triggered by congressional regulations; every one of those dollars has interested parties fighting over it. As a result, congressmen live a life of elegant receptions and parties, are wined and dined by professional panderers, receive the free use of vacation homes and yachts, are awarded expensive prizes, are included in valuable inside information, and are treated to front-row seats at all the big ball games.

Congress routinely excludes itself from all the regulatory laws it enacts: The Social Security Act, the National Labor Relations Act, the Minimum Wage Act, the Civil Rights Act, the Freedom of Information Act, OSHA, the Equal Employment Opportunity Act, the Ethics in Government Act, and a list of others. Two Senators expressed the prevailing attitude crisply: Senator Warren Rudman said in 1990, when an attempt was made to apply the Civil Rights Bill to Congress, "We are not your local manufacturer. It is absolutely essential that . . . we have an absolute right without outside review by anyone of what we do;" and Senate Majority Leader George Mitchell, responding to a proposal to apply OSHA to Congress in 1991, sputtered, "This is the most blatantly, flagrantly, obviously unconstitutional proposal I've ever seen, . . . this phony argument that we ought to be treated like everybody else."

We are all familiar with the examples of rampant scandal and corruption in which the nation's senators and representatives have starred in recent years: Jim Wright and his "Junk Book," Tony Coelho's S&L loans, the Keating Five, the midnight congressional pay raise, the House Bank and widespread check-kiting, Robert Packwood, the Clarence Thomas hearings. Just as disturbing as the stories of unrestricted misbehavior has been Congress's repeated unwillingness or inability to censure or discipline its wayward members, clearly suggesting that the revealed offenses are more "business as usual" than isolated exceptions on Capitol Hill. Neither you nor I think we are privy to half of the excesses of arrogance and greed that go on. I don't believe that these scandals are "normal," or excusable,

or acceptable. Our elected representatives possess power and privilege without abusing their offices or opportunities, but their value to all of us is directly related to their capacity to resist corruption; they have systematically and exceptionally abused the public trust, and do not merit the power we have given them.

The House Bank scandal is a terrific example of the prevailing mood in Congress that power and privilege are to be used and abused without regard to conventional limits or ethics. The House Bank existed to do whatever House members wanted: its accounts, like so much of Congress, were unaccountable; its deficits, like those of our government, weren't a burden to our representatives; its rules were never enforced. Congress's own bookkeeper, the General Accounting Office, performed audits which were routinely ignored, while House members wrote checks for money they didn't have. This went on for years. When the country learned of the House Bank, its special fantasy rules, the way members of Congress took advantage of their entrusted position, the real reason the House Bank existed, the members further embarrassed themselves by trying to ignore and cover up the affair, then by offering every imaginable excuse.

Bill Alexander, a powerful member of the House Appropriations Committee, offered this remarkable explanation: "To put this [his 487 overdrafts] in the simplest terms, I have been broke for the last six years, and even though I found it difficult to make ends meet, I have always stayed within the rules of the House disbursing office." It is reassuring that a distinguished legislator such as Mr. Alexander, who decides how the taxpayers' money is spent, was able to obey nonexistent rules, bounce 487 checks, and be broke on a salary of \$125,100 while enjoying the multitude of free and discount benefits accorded his office. Such experience must surely help him and other members better understand our budget deficit.

The perception of congressmen that they are above standards and beyond review is accentuated, I think, by the isolation and ingrowth engendered by their long residence in the fantasyland of Washington. Studies have correlated longevity in office with reliance on staffers, acceptance of the premises of permanent bureaucrats, and depth of relationship with lobbyists. Washington is a city of relationships; the mutual familiarity required to most effectively manipulate the mutual advantages of political contributions, influence peddling, slush-funding, and intimidation by power all grow over years, and become most ripe when aged long in office. A succession of terms in office also enables legislators to see their long-term relationships with each other, including quid-pro-quo favors, as being more important than the more risky and accountable approach of voting on proposed legislation according to the merit of each issue. Exempt from the required cares of normal private life and isolated from the realities of managing expenses, earning profits, paying bills, and

obeying laws, our elected aristocracy live out long careers far from touch with the country they supposedly govern.

What can be done to correct the abuses, reform and reorient congressional process, and encourage our representatives and senators to focus on attempts at long-term solutions to major problems? I believe it is fatally foolhardy to trust in Congress to strip itself of self-awarded gratuities or to voluntarily sacrifice the fruits of power. On the other hand, I have an abiding faith in the essential nature of representative government. I don't think we must shrug our shoulders and accept the ridiculous ineffectiveness and runaway profligacy of Congress, but I don't think we have to give up on the system, either. I think we -- the people -- can get this machine to run better by merely updating the controls and replacing some bad parts.

I propose that we limit the terms of senators and representatives to two four-year terms. Recognizing that this would entail some losses and would not transform Congress into an ideal institution, I believe that term limits would:

1. Realign power in Congress from seniority to capability;
2. Enable Congress to better deal with significant problems and long-range issues, by eliminating congressional careerism and the absorbing investment in reelection;
3. Reduce the influence of PACs and special interest lobbies, by preventing the long-term relationships which breed dependence on them;
4. Reduce the level of greed and open corruption, by opening up the club to a continuing stream of critical outsiders;
5. Increase the potential for Congressional reform and campaign reform;
6. And, maybe best of all, infuse Congress with a steady stream of talent drawn from the many diverse fields of "real" life.

Opponents of term limits for congresspersons cite several risks of change. They argue that term limits would:

1. Rob the American people of our best leaders in Congress;
2. Rob the American people of the freedom to choose whomever they elect to represent them;
3. Increase the dependence of congressmen on lobbyists and PACs, for information and advice;
4. Increase the dependence of congressmen on staff aides and bureaucrats;
5. And paralyze Congress with inexperience.
6. Further, they argue that the system is self-correcting, since a number of congressmen were replaced in the 1992 elections.

What, as far as we can project it, is the truth?

My bias is clear. All of the arguments against term limits are, I think, clearly refutable. While term limits would cause the loss of some valuable congressmen, like Bill Bradley and Fred Upton, along with all the dead wood, they would open Congress to the vast population of outstanding leaders and thinkers now locked out of the system. The talent now in Congress I would picture thus: (chart); while many senators and representatives are, I think, unusually bright and capable, many others are not particularly uncommon in the personal qualities they bring to the job. Not only does a vast talent pool exist, but turnover in Congress would attract and enable the participation of business leaders, educators, doctors, and others who could break the death-grip monopoly which lawyers now hold on our government.

The argument that term limits would rob Americans of the freedom of choice wilts before the facts: an overwhelming majority of Americans want to choose to have term limits, and the reality of virtually certain incumbent reelection precludes free choice for voters.

The replacement of some congressmen in 1992 occurred, not because the system is healthy, but because of a) the one-time last opportunity to take accumulated campaign war chests home personally, b) public outrage over the continual bath of scandals, and c) reapportionment. If it takes massive collapse in performance to make elections competitive, the system deserves condemnation, not credit.

As discussed earlier, the argument that shorter-term congressmen would be more vulnerable to the control of lobbyists doesn't square with the fact that current congressmen become more tightly involved with PAC-men the longer they're in office. It's hard to imagine how special interests could be any more closely linked to congressional leadership than it is now. Dependence on fixed bureaucracy, like lobbyists, tends to increase with longevity in Washington.

And as for the contention that Congress would be crippled by an influx of new legislators, such a crippling might be a real jump ahead! Our present-day Congress is a study in ineffectiveness, the originator of the term "legislative gridlock." Mark Petracca of the University of California reports, "Professionalism and careerism in politics are the bane of democratic governance. There is no empirical evidence that professional politicians do a better job of governing than amateurs at any level of government." James Spainhower, Missouri representative, says "I don't think any job in representative government is so difficult and complicated that an intelligent, committed person can't get on top of it within a year or so." We manage with a new president and executive branch officials every

four to eight years; why couldn't Congress? If the constant campaign for reelection and the seniority system of power in the Capitol are at the root of the mendacity and mediocrity of our moribund legislative system, then a guaranteed flow of new talent is the remedy we need.

This, then, is our system of representative government. Does it work? Is it satisfactory? As its employers, are we wise to choose to let it run as it is? I am among the huge but heretofore powerless majority of Americans who answer "No!" to those three questions.

75 to 80% of Americans support legislation to limit congressional terms, an attitude which sweeps across all demographic and ideological groups. A grass-roots campaign for congressional term limits has developed in recent years, and has matured to produce state laws and constitutional amendments limiting elected senators and federal representatives from those 14 states to twelve or fewer years. The California Supreme Court has ruled that term limits imposed by states on their respective congresspersons are not unconstitutional or undemocratic, and the U. S. Supreme Court refused to hear an appeal of that decision in 1992. It's a movement in motion, one that I hope will restructure and change the way our federal government works.

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