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**GUBERNATORIAL TERM LIMITS
AND TERM LENGTHS IN
HISTORICAL PERSPECTIVE,
1790-1990: GEOGRAPHIC DIFFUSION,
NON-SEPARABILITY, AND THE
RATCHET EFFECT***

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Legislative term limits in the United States are a topic of concern and debate. In contrast, gubernatorial term limits have attracted relatively little recent attention (see, however, Lipson, 1968; Ransone, 1982; Beyle, 1992). Just as the two-term limit for the president has not been a subject of serious debate for decades (although there were some brief eddies of interest in renewing the debate when the prospect of a third term for Ronald Reagan did not seem out of the question), gubernatorial term limits, too, have largely come to be taken for granted. For example, when the 1990 California term limit initiative was being debated, all of the public attention was devoted to the legislative term limits; its proposed restriction of state executives to a two-term limit went virtually unnoticed. We suspect that the notion of a term limit on state executives has become relatively noncontroversial over the same time period that the two-term limit on the presidency became sanctified by habit. However, executive term limits were once both more controversial and, except at the beginning of our nation's history, less frequent than is true at present (see discussion below).

RESEARCH DESIGN

Unlike research about legislative term limits that largely looks at questions such as who supports term limits (and why), and models the political and policy consequences of their imposition, our concerns will be with historical data about the geographic dispersion of term limits and their durability, and with the relationship between term limits and another type of institutional "reform," change in the length of term of office. In particular, we will examine three hypotheses.

The first hypothesis is that gubernatorial term limits, like other forms of institutional innovation, spreads through a process of geographic diffusion. Here, even after we control for year of statehood, we find diffusion from the eastern seaboard, but we also find that certain regions of the country, namely the New England states and the Far West, have been resistant to term limits—at least until very recently. Thus, it would seem that explanations of the spread of gubernatorial term limits require us to take into account the independent effects of “political culture.” The second hypothesis is that, once instituted, term limits are rarely removed. Thus, we hypothesize that term limits exhibit a “ratchet effect” in which movement tends to be in only one direction. This hypothesis is based on the intuition that the imposition of gubernatorial term limits affects the relative balance of power among the three branches of government by weakening the threat power of the governor since he is no longer able to carry out long-run sanctions. In particular, legislators with extended careers can just outwait the current governor. Once term limits are imposed, there will be resistance from key legislative actors to reestablishing the status quo ante, especially since recent historical forces increasing the size and scope of government have generally tended to strengthen executives in their struggles with legislatures.

The third hypothesis is that term *limits* and term *lengths* are inextricably intertwined, a topic we explicate in terms of the social choice concept of non-separable preferences. The basic intuition underlying this third hypothesis is that support for term limits will rise as term lengths increase because both are ways of limiting the expected time that an elected official will serve. Thus we would expect that an increase in term length will often be accompanied by (or soon followed by) the (*partly compensating*) imposition of some type of limit on the number of terms of service in office. More narrowly, preferences for term limits and term lengths should be what social choice theorists refer to as non-separable.

Consider two variables, A and B, values of which are represented as a two place vector (a, b) . Preferences over A and B are *separable* if and only if the fact that a voter prefers (a_i, b_k) to (a_k, b_k) implies that the voter also prefers (a_i, b_m) to (a_k, b_m) for all values of m; and similarly, the fact that a voter prefers (a_i, b_j) to (a_j, b_j) implies that the voter also prefers (a_i, b_r) to (a_j, b_r) for all values of r. In other words, preferences are separable if what is preferred with respect to values of one variable is independent of what the value of the other variable is expected to be.¹ Preferences which fail to satisfy this separability condition are called *non-separable* preferences.

The votes on questions of presidential term limits and presidential term length at the Constitutional Convention in Philadelphia reveal non-separable preferences. Those who favored longer terms tended to favor terms that were non-renewable; those who favored shorter terms generally favored allowing for indefinite eligibility for reelection (or placing only very limited constraints on reeligibility). In the early days of the Philadelphia convention, James Randolph (along with James Madison, the author of the “Virginia Plan”) proposed a seven-year presidential

term with no reeligibility; and the "New Jersey Plan," introduced by William Paterson, also proposed a seven-year term of presidential office without reeligibility. William Sherman of Pennsylvania proposed a three-year term, but with reelection not prohibited; while Gunning Bedford of Delaware also proposed a three-year term with only a weak limitation on reeligibility—a three-term limit.

Because of the tradeoffs between term lengths and term limits, whether a delegate to the convention favored, say, a seven-year over a three-year presidential term, cannot be answered in the abstract, but only when we also know what specific term limits were associated with each proposed term length. Madison's *Notes on the Convention* has Gouverneur Morris of Pennsylvania saying: "Let him [the executive] be of short duration, that he may with propriety be re-eligible." We can best understand preferences at the Philadelphia convention for term lengths and term limits in terms of votes on "preference bundles," i.e., in terms of votes on proposals specifying both a term length and a term limit. There were a series of votes in Philadelphia on presidential term length and presidential term limits that reflected an absence of consensus on this issue. On June 1, 1787, and again on June 13 a seven-year term with ineligibility for reelection was approved. On July 19 a six-year term was approved, but the motion to prevent reeligibility failed (although barely), leaving many members dissatisfied. On July 26 the convention returned to a seven-year term and ineligibility for reelection, with seven states in favor and three opposed. It was not until September 4 (only 13 days before the convention adjourned) that a four-year term was agreed to (Stein, 1972). Implicit in this decision to opt for a short term length was the decision (reflected in the first draft of the Constitution) that reeligibility for office would be permitted. The two issues were not separable.

In turn, both presidential term length and term limits on that office became bound up in the issue of presidential selection. The decision to have a relatively brief presidential term length and not impose limits on the number of terms the new chief executive might serve emerged as part of one of the several momentous compromises of the convention—this one between those who favored legislative selection of the executive from within its own ranks and those who favored direct popular election of the president. The Founding Fathers opted for neither. Rather they provided an indirect election via the electoral college. They expected that members of the electoral college would be notables who would exercise real choice, rather than ciphers bound to vote along party lines (Riker, 1984).

Data and Analysis

By combining data for the recent period from secondary sources such as the *Book of the States* with data gleaned directly from (annotated) state constitutions, we have compiled a data base on gubernatorial term lengths and term limits that

extends back to the Founding.² We show term length and term limit data in Table 17.1 for the nation as a whole at decade-long intervals.

Table 17.1
Gubernatorial Term Length and Gubernatorial Term Limits 1780-1990

	Percentage of States with Gubernatorial Terms of Length of:				Mean Gubernatorial Term Length	Percentage of States with:			
	1 year	2 years	3 years	4 years		No Term Limits	Variable Limit (i.e., n terms in m years)	Absolute Term Limit	Consecutive Term Limit
1780	76.9	7.7	15.4	0	1.38	46.2	15.4	0	38.5
1800	56.3	18.8	18.8	6.3	1.75	50.0	18.8	0	31.3
1820	41.7	25.0	16.7	16.7	2.08	41.7	25.0	0	33.3
1830	41.7	29.2	12.5	16.7	2.04	41.7	25.0	0	33.3
1840	25.9	33.3	14.8	25.9	2.41	40.7	29.6	3.7	25.9
1850	19.4	38.7	16.1	25.8	2.48	41.9	25.8	6.5	25.8
1860	17.6	44.1	5.9	32.4	2.53	44.1	29.4	8.8	17.6
1870	13.5	37.8	5.4	43.2	2.78	70.3	13.5	2.7	13.5
1880	5.3	50.0	2.6	42.1	2.82	73.7	7.9	2.6	15.8
1890	4.5	50.0	2.3	43.2	2.84	68.2	6.8	2.3	22.7
1900	4.4	48.9	2.2	44.4	2.87	66.7	6.7	2.2	24.4
1910	2.1	47.9	2.1	47.9	2.96	62.5	6.3	2.1	29.2
1920	0	52.1	2.1	45.8	2.94	62.5	6.3	2.1	29.2
1930	0	50.0	2.1	47.9	2.98	62.5	6.3	2.1	29.2
1940	0	47.9	2.1	50.0	3.02	64.6	6.3	2.1	27.1
1950	0	43.8	0	56.3	3.13	62.5	6.3	2.1	29.2
1960	0	30.0	0	70.0	3.40	52.0	4.0	6.0	38.0
1970	0	14.0	0	86.0	3.72	48.0	4.0	10.0	38.0
1980	0	6.0	0	94.0	3.88	44.0	4.0	8.0	44.0
1990	0	4.0	0	96.0	3.92	40.0	4.0	14.0	42.0

Table 17.1 shows that, with the exception of the period from 1860-1870, the most common form of gubernatorial term limits throughout our nation's history has been a limit on consecutive terms, but what we call variable limits (i.e., n terms in m years) were quite common in the nation's early years. Over time, the number of states imposing some form of term limits has risen, but the proportion of states with some form of gubernatorial term limits, although now at its highest value in the nation's history, has not displayed a perfectly monotonic pattern of increase. However, it is useful to divide the time periods into two, before and after 1870.

The proportion of states using term limits dropped precipitously as of 1870. There were special circumstances involving southern states readmitted to the Union during Reconstruction. For Texas, as for seven other states in the Confederacy (Alabama, Arkansas, Florida, Georgia, Maryland, Mississippi, and South Carolina), gubernatorial term limits found in their state constitution were removed during the

period when Congress was supervising Reconstruction in the carpetbagger-dominated constitutional conventions during that period. Eventually all of these states except Texas did restore gubernatorial term limits, but a number did not do so until the middle of this century. Indeed, it was not until 1980 that the proportion of states with gubernatorial term limits returned to its immediate pre-Civil War high. When we divide the data into two time periods, we observe that there has been an almost perfectly monotonic pattern of increase in the proportion of states using term limits since 1870; in contrast, the period between 1790 and 1860 shows no clear pattern in the proportion of jurisdictions using term limits. However, this earlier period does show a steady reduction in the proportion of states with consecutive limits and a steady increase proportion of states with variable limits.

It is apparent from Table 17.1 that, over the entire time period, the mean length of gubernatorial terms has increased in a nearly monotonic fashion—but slowly. While at present all but three states have four-year terms for governor, it was not until 1940 that the proportion of states with four-year terms for governors hit fifty percent.

Term Limits and Term Lengths

Inspection of the data in Table 17.1 suggests that there is a link between term length and term limits. In 1800, 33% of the states with one-year terms had term limits, while 71% of the states with terms of two or more years had term limits. Between 1792 (Kentucky) and 1821 (Missouri), four of the ten new states entered the Union with four-year gubernatorial terms, thereby raising the average term length to more than two years. However, of the original states only Pennsylvania and Delaware had terms of three years or more. Thus, by 1830, 41% of the states with one- or two-year terms had term limits, while 100% of the states with terms of three or more years had term limits. This trend continued until 1845, at which point 44% of the states with one- or two-year terms had term limits, while 100% of the states with terms of three or more years had term limits. Also, by 1845 the New England states were the only ones which still had one-year terms; i.e., none of the states with one-year terms had term limits. Between 1846 (Iowa) and 1861 (Kansas), four of the six new states entered the Union with two-year gubernatorial terms, and no term limits. Of the six, only Oregon had a term limit. The seven most northeasterly states continued to have no term limits and terms of two years or less. California was the only state with a term of three years or longer and no term limit. At the onset of the Civil War, therefore, 39% of the states with one- or two-year terms had term limits, while 92% of the states with terms of three or more years had term limits.

Reconstruction constitutions all but wiped out gubernatorial term limits in the South. Consequently, in 1870, 10% of the states with one- or two-year terms had term limits, and less than half (47%) of the states with three- or four-year terms

had term limits. The southern states gradually reinstated term limits; however, none of the states which entered the Union between 1870 and 1900 had term limits, the result being that by 1900, 8% of states with one- or two-year terms had term limits, while 60% of the states with three- or four-year terms had term limits. This pattern was little changed by 1950, when 8% of the half of the states with two-year terms had term limits, and 62.5% of the half of the states with four-year terms had term limits. Since 1950, the trend has been towards four-year terms, and over half of the states which have adopted the four-year term length have also adopted some form of term limit. As a result, since 1974 no state with a two-year term has had a term limit, while the percent of states with four-year terms that also have term limits is 62%. In the period from 1870 to 1990, the correlation between the mean length of gubernatorial terms and the proportion of states with some form of gubernatorial term limit is a whopping $-.97$, largely because by 1990, the only states with two-year terms for governor have no limitations on terms of service.

Of course, correlation is not causation. The largest increases in the proportion of states imposing term limits comes after the passage of the 22nd Amendment, and this may simply be copycat behavior of federal practices, rather than a *response* of gubernatorial term limits to increases in gubernatorial term lengths.³ Moreover, we find that many states without term limits increased gubernatorial term length, even to four years, without initially imposing a term limit on gubernatorial service; and a couple of states that had term limits decreased gubernatorial term length without eliminating term limits. The data in Table 17.1 can be cross-tabulated to see whether changes in gubernatorial term limits either were accompanied by or were preceded by changes in gubernatorial term length more than would be expected by chance. Doing so shows no clear pattern (cross-tabulation omitted for space reasons).

There are two other questions about gubernatorial term limits that our historical data base permits us to answer: "Are term limits once invoked likely to be rescinded?" and "What is the geographic pattern of term limit usage over the course of our nation's history?"

As shown in Table 17.1, we now have more states (twenty-nine) with some form of gubernatorial term limit than ever before.⁴ Of these twenty-nine states, however, if we do not count the Reconstruction interruption in various of the southern states, seventeen have had term limits continuously from their time of admission to statehood until the present (Alabama, Alaska, Delaware, Florida, Indiana, Kentucky, Louisiana, Maryland, Missouri, North Carolina, New Mexico, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, and Virginia) and three others (Arkansas, Georgia, and Ohio) had term limit provisions in their original constitution that were subsequently eliminated only to have some form of term limits restored at a later time that are still in place today. That leaves nine states as ones whose original constitution did not provide for any form of term restriction but where gubernatorial term limits are now in place (Hawaii, Kansas, Maine, Mississippi, Nebraska, Nevada, New Jersey, South Dakota, and West Virginia). In

six of these (Kansas, Maine, Nebraska, Nevada, South Dakota, and, of course, Hawaii) the first imposition of some form of gubernatorial term limit did not occur until the twentieth century. Mississippi first had term limits in 1832, New Jersey in 1844, and West Virginia in 1872.

Of the twenty-one states that now (ca. 1990) lack term limits, there are eighteen states that have never had any form of limitation on gubernatorial reeligibility. These include five of the original colonies (New York and the New England states of Connecticut, Massachusetts, New Hampshire, and Rhode Island), another New England state that sprang from the original colonies (Vermont), seven western states (Arizona, California, Colorado, Montana, Utah, Washington, and Wyoming), and five midwestern states (Iowa, Michigan, Minnesota, North Dakota, and Wisconsin). Only three states who presently lack a restriction on gubernatorial reeligibility once had such a limit. Idaho's original constitution had no gubernatorial term limit provision but when gubernatorial term length was increased from two years to four years, a limit of two consecutive terms was imposed and remained in place from 1944 through 1954. Two other states, Illinois and Texas, had gubernatorial term limits in the pre-Civil War period, but lack such limits at present.

Geographic Diffusion

To better understand the historical and geographic pattern of gubernatorial term limits it helps to observe that, from the date of ratification of the U.S. Constitution to the admission of Texas in 1845, if we exclude New England, virtually every state admitted to the Union had a gubernatorial term limit; while in stark contrast, between 1846 and 1900, only one state was admitted to the Union with a term limit (Oregon, 1859). Moreover, eleven states (primarily those in the Confederacy, where the choice was involuntary) ended use of term limits during the Civil War or during the Reconstruction period. Nonetheless, today, term limits are quite common.

Figure 17.1 shows (in map form) for each state the number of years from the time of a state's admission into statehood until adoption of gubernatorial term limits. We have chosen to present the data on this map relative to date of admission of a state to the Union, rather in the more standard fashion in terms simply of year of adoption, so as to minimize the geographic confounding caused by the westward pattern of expansion of U.S. boundaries. We have also generated a map using date of adoption of term limits, and the visible patterns are quite similar (map omitted for reasons of space). It is apparent from Figure 17.1 that gubernatorial term limits are geographically concentrated. Figure 17.1 shows a visually clear pattern of monocentric diffusion of term limits from the southeastern part of the United States, especially once we observe that West Virginia was not admitted to the Union until the Civil War period. Only since 1960 have term limits penetrated into the New England states and into the Far West.

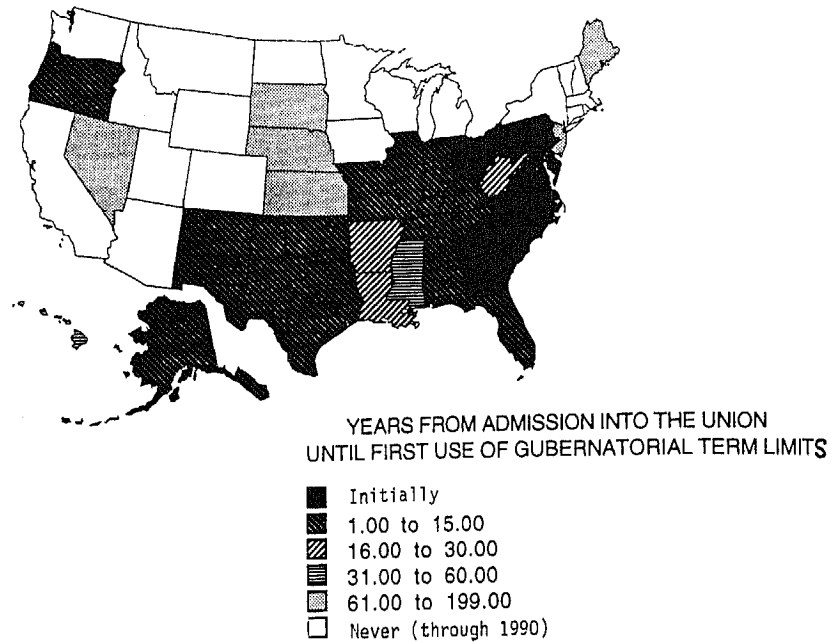


Figure 17.1
Years from Admission into the Union until the First Use of
Gubernatorial Term Limits

Continuity of Use

Excluding states whose elimination of term limits occurred during the Civil War or Reconstruction, Ohio is the only state to have had term limits but then to have eliminated their usage in some subsequent period (albeit only temporarily). Moreover, only if we count Texas, which eliminated term limits as a result of Reconstruction and never reimposed them, and Illinois, which also eliminated its use of term limits during the Civil War period, can we find any states which have ever had gubernatorial term limits in place that do not have some form of term limits in place today. Thus, term limits seem largely to exhibit what we might call a "one-way ratchet effect."

DISCUSSION

Our data cannot prove a causal link between an increase in gubernatorial term length and the imposition of term limits, but we do observe a close connection between the two phenomena. We have also found a strong geographic pattern to

the use of gubernatorial term limits, with use very rare in New England and western states and very common in the South. Lastly, we found a strong continuity in the imposition of gubernatorial term limits as of 1990, with eighteen states having never made use of them and seventeen states having a continuous history of their use. Moreover, if we exclude the Reconstruction period where readmitted southern states dropped gubernatorial term limits, it is very rare for term limits once in place to be eliminated or even reduced in severity. We would anticipate that the same will prove to be true for the imposition of legislative term limits. Also, by more nearly equalizing the expected years of service of governors and legislators, the imposition of legislative term limits should straighten the former at the expense of the latter.⁵

Endnotes

1. For simplicity we have defined separability in terms of just two variables. Extending the definition above to a more general multi-variable definition is straightforward.

2. Our sources include annual editions of the *Book of the States, 1941-1991*, published by the Council of State Governments; Thorpe, 1909; Kallenbach, 1977; reports on state governments in various issues of the *American Political Science Review*, Vol. 1, No. 2, 1907 through Vol. 34, No. 3, 1940; and Lutz, 1980.

3. In 1990, exactly half the states had four-year terms and two-term limits for state governors.

4. The adoption of gubernatorial term limits in California in 1990, and in Arizona in 1991, is not shown in our data set which only includes those changes that were in effect as of the 1990 election.

5. Will (1992: 177) predicts the opposite.