



Written by [Jack Kenny](#) on July 7, 2009

Obama's Third Term?

Rush Limbaugh sounded the alarm on his radio program on June 30, warning that Obama and some of his most ardent supporters are already trying to “lay a foundation” for his staying on as president beyond the constitutional limit of two terms, should he be elected to a second term in 2012.

“I wouldn’t be at all surprised if in the next number of years there is a move on the 22nd Amendment,” Limbaugh said.

In January of this year, Rep. Jose Serrano (D-N.Y.) introduced a proposed constitutional amendment to repeal the 22nd Amendment, which limits presidents to two terms. A grass-roots movement, [End22.com](#) is rallying support for the measure and soliciting contributions for the campaign.

“We are wise enough to choose our own leader and to decide how long that leader will serve,” the website states, arguing that nothing in the original Constitution barred any president from seeking a third or fourth term.

The 22nd Amendment, passed by Congress in 1947 and ratified by the states in 1951, stipulates that no one may be elected president more than twice. A president who takes office on the death, incapacity, or resignation of the previous president may seek two terms of his own only if he served for two years or less of the previous president’s term. The amendment was passed by a Republican Congress after Democrat Franklin Roosevelt had won four terms before dying in office early in his last term in 1945. Harry Truman, who succeeded Roosevelt, was exempted from the limitation and, following his election in 1948, could have run again in 1952, but chose not to. The restriction has applied to every president since and remains in effect.

Pictures of FDR and Obama appear side by side on the End22.com website, where the text poses a comparison of the two presidents and their respective challenges. “During the last Great Crisis, Franklin Delano Roosevelt led Americans out of the Great Depression and through World War II,” it says. “Today Barack Obama leads us through the worst Economic Crisis since the Great Depression and leads the War on Terror.... With our current crises, the American People need to take back their right to elect the leader of their choice. The task is too large and the risk is too great — we must act now!”

When the 22nd Amendment was debated in Congress, Republicans cited the tradition established by George Washington, who retired after two terms, despite widespread public support for his reelection. Thomas Jefferson, the next president to win a second term, followed that example.





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“If some termination to the services of the chief magistrate be not fixed by the Constitution or supplied in practice,” Jefferson wrote to the Legislature of Vermont, “his office, nominally for years, will in fact become for life; and history shows how easily that degenerates into an inheritance.” The tradition lasted until Roosevelt became, in fact, president “for life” holding the presidency for 12 years before death interrupted his fourth term. During that time, including four years of war, he wielded more power over the political and economic life of the nation than any previous president. Republicans, appearing wary of executive power in the post-war years, claimed a president too long in office acquires powers and influence that undermine constitutional restraints. Then-Representative Everett Dirksen of Illinois said supporters of the amendment were “trying to repair an American tradition.”

But Democrats argued the amendment itself would undermine the right of self-rule. “For the people to have the privilege of choosing whom they please as their leader is real democracy in action,” argued Speaker of the House Sam Rayburn.

Scholars and pundits as well as politicians have often weighed in on the issue. Historians James MacGregor Burns and Susan Dunn raised the lame-duck argument in January, 2006, in the middle of George W. Bush’s second term. “A second-term president will, in effect, automatically be fired within four years,” they wrote in an op ed piece for the *New York Times*. “Inevitably his influence over Congress, and even his authority over the sprawling executive branch, weaken. His party leadership frays as presidential hopefuls carve out their own constituencies for the next election. Whether the president is trying to tamp down scandal or push legislation, he loses his ability to set the agenda.”

The power of the president to “set the agenda” has been widely taken for granted since the heady days of the New Deal, when the role of the Congress in writing and debating legislation was fairly well taken over by the White House. (Congress, comedian Will Rogers said at the time, was no longer writing the laws, “it just waves at them as they go by.”) But the Constitution, which vests “All legislative Powers” in the Congress of the United States, gives no indication that the chief executive should “set the agenda” for the nation.

Concerns about declining presidential power in a second term seem strangely at odds with a greater and more valid concern about an “imperial presidency.” President George W. Bush’s “lame duck” status in his second term did not prevent him from issuing “signing statements” that effectively amended or deleted provisions of laws passed by Congress. Nor did it deter him from asserting his claimed authority to imprison suspected terrorists, including American citizens apprehended in the United States indefinitely, without formal charges or trial — a policy apparently being continued under the Obama regime. Congress has repeatedly, under presidents of both parties, abdicated to the executive the power to decide whether and when the United States shall go to war. Rather than bemoan the president’s waning “influence over Congress” in a lame-duck term, we might better demand a restoration of Congress’ lost grip on its own constitutional powers.

As Thomas Jefferson observed in his “Notes on the State of Virginia”: “An elective despotism was not the government we fought for; but one which should be not only founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy that no one could transcend their legal limits without being checked and restrained by the others.”

As for Speaker Rayburn’s claim that “real democracy” requires “the privilege of the people to choose whom they please as their leader,” that “privilege” has always been subject to constitutional limits. The people may not choose someone under 35 years of age, for example, no matter how brilliant or accomplished someone of a lesser age might be. Nor may we elect someone born outside the United



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States, no matter how long that person may have lived among us or how faithfully he or she has served our nation. A “real democracy,” presumably one in which there is no limit on the right of the people to choose whom or what they please, is clearly not what the Founders had in mind when they established a constitutional republic.

“Democracy is the most vile form of government,” wrote James Madison, contending that democracies “have ever been spectacles of turbulence and contention: have ever been found incompatible with personal security or the rights of property: and have in general been as short in their lives as they have been violent in their deaths.”

Given the corrupting influence of power, the 22nd Amendment prevents the occupant of the most powerful office in the land from perpetuating himself or herself in office indefinitely by means of favors bestowed on or demagogic appeals to various blocs of voters. Efforts to repeal it have been introduced by members of both parties numerous times over the years, but so far no such proposal has come to a vote before either house of Congress.

But Limbaugh, who was noticeably silent about abuse of presidential power during the eight years George W. Bush was in the White House, has warned his listeners that Obama may seek and find unconstitutional means of bypassing the term-limits amendment. “There’s a lot of stuff that you didn’t think could happen here that’s happening right before your very eyes and it’s not happening according to the Constitution,” he said, noting that the current president has appointed new “czars,” taken over banks, and demanded the firing of executives in the auto industry, all without constitutional authority. Said Limbaugh: “Folks, getting rid of the 22nd Amendment is chump change compared to what this man’s already achieved that nobody thought could happen.”



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