

# NO THIRD TERM: REJECTING THE NONCONSECUTIVE LOOPHOLE

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The text of the Twenty-Second Amendment seems clear that a president cannot be elected to a third term: “No person shall be elected to the office of the President more than twice.” This Essay looks further to the history surrounding the Twenty-Second Amendment, an exercise sometimes employed by judges, particularly those who favor the constitutional interpretive method of originalism. History shows that a president cannot be elected to a third term on the theory that the previous terms were nonconsecutive.

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## INTRODUCTION

A Harvard Law emeritus professor has recently advanced the argument that mechanisms may exist for a president to serve a third term,<sup>1</sup> though many constitutional law scholars take the opposite view.<sup>2</sup> This Essay categorically rejects the particular claim that a president may be elected to a third term on the specific theory that the prior two terms were nonconsecutive.

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1. Brian Schwartz, *Trump Told by Alan Dershowitz Constitutionality of Third Term Is Unclear*, WALL ST. J. (Dec. 17, 2025), [https://www.wsj.com/politics/elections/trump-told-by-alan-dershowitz-constitutionality-of-third-term-is-unclear33133eb8?gaa\\_at=eafs&gaa\\_n=AWetsqe32UbqFCVJvsg6vhkpKdEmGkQG7y1zUOY8MIKqTJYgBpcFE0421QXE3svRozM%3D&gaa\\_ts=69cb1f11&gaa\\_sig=d8ocy2tTi66Uphs6ABhUM6ZxICmSi\\_W9c7oFvwx903cUNFtD-fEYGK\\_tnBHdltwUFCtGZo591egqi0gmMvww%3D%3D](https://www.wsj.com/politics/elections/trump-told-by-alan-dershowitz-constitutionality-of-third-term-is-unclear33133eb8?gaa_at=eafs&gaa_n=AWetsqe32UbqFCVJvsg6vhkpKdEmGkQG7y1zUOY8MIKqTJYgBpcFE0421QXE3svRozM%3D&gaa_ts=69cb1f11&gaa_sig=d8ocy2tTi66Uphs6ABhUM6ZxICmSi_W9c7oFvwx903cUNFtD-fEYGK_tnBHdltwUFCtGZo591egqi0gmMvww%3D%3D) [https://perma.cc/GP9D-SP46].

2. See, e.g., AKHIL REED AMAR, *AMERICA'S CONSTITUTION: A BIOGRAPHY* 436, 622 n.8 (2005).

The plain language of the Twenty-Second Amendment is clear: “No person shall be elected to the office of the President more than twice.”<sup>3</sup> However, in addition to the text, judges (particularly those who favor the constitutional theory of originalism) sometimes consider the history surrounding a constitutional provision.<sup>4</sup> This Essay thus looks at the history surrounding the Twenty-Second Amendment. The historical record confirms that a president cannot be elected to a third term based on the argument that the two previous terms were nonconsecutive.<sup>5</sup>

The main focus of this Essay is evaluating whether a president can get elected to a third elected term after being elected to two previous nonconsecutive terms. However, it also explores newspaper evidence during the ratification period suggesting a public understanding that the practical effect of the Amendment was that ten years is the maximum any person can serve as president. This newspaper evidence implying a ten-year practical cap could be relevant where one has already been elected to two terms, but then later runs as a vice-presidential nominee, then get elected vice-president, and then serves as president due to resignation or death of the president.<sup>6</sup> It might also be relevant in other scenarios contemplated by constitutional law scholars.<sup>7</sup>

#### I. THE TEXT OF THE TWENTY-SECOND AMENDMENT

The text of the Twenty-Second Amendment seems to indicate quite plainly that a president cannot be elected more than twice:

*No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.*<sup>8</sup>

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3. U.S. CONST. amend. XXII, § 1, cl. 1.

4. See Neil S. Siegel, *Balkin Amid Balkanization: Constitutional Construction, the Uses of History, and Interpretive Discretion in A Divided Country*, 13 TEX. A&M L. REV. 625, 628 (2026).

5. See *infra* Part II.

6. See generally Bruce G. Peabody & Scott E. Gant, *The Twice and Future President: Constitutional Interstices and the Twenty-Second Amendment*, 83 MINN. L. REV. 565 (1999) (examining the constitutionality of six scenarios where a twice-elected President might act as or become president again); Dan T. Coenen, *Two-Time Presidents and the Vice-Presidency*, 56 B.C. L. REV. 1287 (2015) (discussing whether a twice-before-elected President can serve as Vice-President).

7. Peabody & Gant, *supra* note 6, at 568–69.

8. U.S. CONST. amend. XXII, § 1, cl. 1 (emphasis added).

Therefore, based solely on the text, the Twenty-Second Amendment prevents a president from being elected to a third term if the president has been elected twice already.<sup>9</sup>

While the text is straightforward, some have posited that the Amendment might only apply to consecutive terms.<sup>10</sup> Justice Kavanaugh appeared to reject this argument, at least implicitly, in his concurrence in *U.S. v. Rahimi*.<sup>11</sup>

Kavanaugh writes: “[M]any [c]onstitutional provisions are relatively clear. And when [the] Constitution employed words [that] are plain and clear, resort to collateral aids [such as the surrounding history are] unnecessary and cannot be indulged in to narrow or enlarge the text.”<sup>12</sup> Kavanaugh then states: “In many important provisions, the Constitution is a document of majestic specificity. . . . Two Houses of Congress. A House elected every two years. Senators serve 6-year terms. Two Senators per State . . . The President serves a 4-year term. *A maximum of two elected terms for a President*.”<sup>13</sup> Thus, Justice Kavanaugh seems to think that the Twenty-Second Amendment is straightforward, and that it does not matter whether a president’s previous two terms were consecutive.<sup>14</sup>

Suppose, however, that the text of the Twenty-Second Amendment is not clear, so history should be consulted. Alternatively, suppose that an originalist judge believes that history should always accompany an examination of the text, even if the text is clear. What does the historical record say about the Twenty-Second Amendment? Can a president be elected to a third term based on the argument that their previous terms were nonconsecutive?

## II. THE HISTORICAL RECORD REJECTS A THIRD TERM BASED ON PRIOR NONCONSECUTIVE TERMS

Analyzing the history surrounding the Twenty-Second Amendment’s ratification makes clear that a president cannot be elected to more than two terms, even if the prior terms were nonconsecutive.

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9. *See id.*

10. Emmy Martin, *Steve Bannon floats an unconstitutional candidate: Trump in 2028*, POLITICO (Dec. 16, 2024), <https://www.politico.com/live-updates/2024/12/16/congress/trump-2028-00194535> [<https://perma.cc/BB4J-YGP8>].

11. 602 U.S. 680 (2024) (Kavanaugh, J., concurring).

12. *Id.* at 715–16 (quoting *McPherson v. Blacker*, 146 U.S. 1, 27 (1892) (emphasis added)).

13. *Id.* at 715.

14. *See id.*

*A. Senate Voted Against “Successive Term” Limit*

In debates surrounding the Twenty-Second Amendment, the Senate considered an amendment that would have only prohibited a president from getting elected to more than two “successive terms.”<sup>15</sup> This amendment was proposed by Senator Warren Magnuson from Washington, at the suggestion of Senator Spessard Holland from Florida.<sup>16</sup> The draft amendment stated: “No person shall be eligible to be elected to the office of President for *more than two successive terms*.”<sup>17</sup>

Notably, the term “successive” is listed as a synonym for “consecutive” in the American College Dictionary from 1947.<sup>18</sup> Further, other dictionaries from the ratification period also confirm that “consecutive” and “successive” are synonyms. For example, Webster’s New World Dictionary published in the same year that the Twenty-Second Amendment was ratified, contains the following definition of consecutive: “following in order, without interruption; *successive*.”<sup>19</sup> Perhaps, then, if Senator Magnuson’s proposed amendment regarding “successive terms” was adopted, then a president could be elected to a third term.

However, the proposed amendment was debated and failed.<sup>20</sup> Thirty-four senators voted in favor and fifty senators voted against.<sup>21</sup> Furthermore, minutes of the debate over Senator Magnuson’s proposal were available to members of the public, thereby informing a reasonable person’s understanding of what the Twenty-Second Amendment meant.<sup>22</sup>

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15. 93 CONG. REC. 1938 (1947).

16. *Id.* See also Coenen, *supra* note 6, at 1305 n.100 (“[A]fter negotiations produced the final version of the Amendment, Senator Magnuson moved to an even more pro-voter-freedom-driven position, which would have barred voters only from electing a President ‘for more than two successive terms.’”).

17. 93 CONG. REC. 1994 (1947) (emphasis added).

18. AMERICAN COLLEGE DICTIONARY 257 (Clarence L. Barnhart ed., 1947).

19. WEBSTER’S NEW WORLD DICTIONARY OF THE AMERICAN LANGUAGE 312 (1951); see also *Consecutive*, BLACK’S LAW DICTIONARY 376 (4th ed. 1951) (defining “consecutive” as “[s]uccessive; succeeding one another in regular order”).

20. 93 CONG. REC. 1938–55 (1947).

21. *Id.* at 1955.

22. This debate was printed in the Congressional Record and was available to the public in 1947. See *Guide to House Records: Chapter 1*, NAT’L ARCHIVES (Mar. 20, 2024), <https://www.archives.gov/legislative/guide/house/chapter-01.html> (“In 1947, the *Congressional Record* produced a new publication: the *Daily Digest*. The *Daily Digest* records floor and committee proceedings each day.”) [<https://perma.cc/K3YJ-CC3T>]. It has also been widely accepted that the Twenty-Second Amendment was passed in response to President Franklin Roosevelt. See e.g., Coenen, *supra* note 6, at 1307 (“It was the presidency of Franklin Roosevelt that framed the thinking of every political representative who was called on to consider the Twenty-Second Amendment.”). President Roosevelt was elected in 1932, 1936, 1940, and 1944. *Franklin D. Roosevelt’s Presidency*, FRANKLIN D. ROOSEVELT PRESIDENTIAL LIBR. & MUSEUM, <https://www.fdrlibrary.org/fdr-presidency> (last visited Apr. 14, 2025) [<https://perma.cc/N9K5-CSHM>].

*B. State Constitutions Used “Successive”*

State constitutions from Twenty Second Amendment’s ratification period are also instructive. During the ratification period, many state constitutions contained provisions including successive term limits for governors.

For example, New Jersey delegates drafted a new state constitution in 1947,<sup>23</sup> the same year New Jersey ratified the Twenty-Second Amendment.<sup>24</sup> New Jersey’s new state constitution expressly included a “successive terms” limitation for that state’s governorship: “No person who has been elected Governor for two *successive* terms, including an unexpired term, shall again be eligible for that office until the third Tuesday in January of the fourth year following the expiration of his second successive term . . . .”<sup>25</sup> A reasonable person from New Jersey could thus understand the differing language between their state constitution and the Twenty-Second Amendment to mean that the Twenty-Second Amendment applied to all terms, regardless of whether the terms were successive.<sup>26</sup>

Additionally, it was observed on the floor of Congress during debates surrounding the Twenty-Second Amendment that Alabama, as well as many other states, had a restriction on successive terms:

Mr. HILL. The Constitution of Alabama provides that the Governor of Alabama may serve as many terms as he can be elected to but that he may not be his own immediate successor. . . . Mr. BALDWIN. I am under the impression that a good many of the States in recent years have adopted that sort of an amendment to their constitutions. It did not used to be so.<sup>27</sup>

Other states indeed had analogous constitutional provisions.<sup>28</sup>

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23. *1947 State Constitution*, STATE OF N.J.: DEP’T OF STATE, <https://www.nj.gov/state/archives/docconst47.html> (last visited Feb. 16, 2026) (“New Jersey’s current state constitution was drafted by a convention of delegates from each county, convened from 12 June to 10 September 1947.”) [<https://perma.cc/NN92-U2N6>].

24. *22<sup>nd</sup> Amendment*, STATE OF N.J.: DEP’T OF STATE, <https://nj.gov/state/archives/doc22ndamendment.html> (last visited Feb. 16, 2026) (noting that New Jersey ratified the 22nd Amendment on Apr. 15, 1947) [<https://perma.cc/5PHF-SB64>].

25. *See 1947 State Constitution*, *supra* note 23 (emphasis added).

26. *See supra* notes 17–19.

27. 93 CONG. REC. 1778 (1947).

28. *See, e.g.*, GA. CONST. of 1945, art. V, § 1 (“The Governor serving at the time of the adoption of this Constitution and future Governors shall not be eligible to *succeed* themselves and shall not be eligible to hold the office until after the expiration of four years from the conclusion of his term of office.”) (emphasis added), <https://heinonline.org/HOL/P?h=hein.statecon/xxga0020&i=24> [<https://perma.cc/PT2Q-29J4>]. Many other state constitutions that were in effect during the ratification period had

*C. Federal Statutes Used “Successive” and “Consecutive”*

Various federal statutes during the ratification period contained references to “successive” and “consecutive,” again reinforcing the idea that Congress could have employed such language in the Twenty-Second Amendment if desired.

For example, one federal statute from 1950 discussed the membership of the National Science Board, where terms for the Board were two years in length. The statute stated: “Any person who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.”<sup>29</sup> Thus, the federal statute allowed a board member to serve six consecutive terms, after which, a board member needed to sit out for a term.<sup>30</sup>

A similar rule applied to board members serving on the Executive Committee: “Any person who has been a member of such [Executive]

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language discussing whether a governor could serve more than a particular number of terms, or whether they needed to wait a number of years before again seeking the governorship. *See* FLA. CONST. art. IV, § 2 (1940), <https://heinonline.org/HOL/P?h=hein.statecon/xxfl0015&i=9> [<https://perma.cc/4JSF-LEH5>]; MD. CONST. art. II, § 1 (1948), <https://heinonline.org/HOL/P?h=hein.statecon/xxmd0173&i=15> [<https://perma.cc/M49D-4SXX>]; ALA. CONST. art. V, § 116 (1939), <https://heinonline.org/HOL/P?h=hein.statecon/xxal0012&i=137> [<https://perma.cc/3N6S-GT3K>]; DEL. CONST. art. III, § 5. (1940), <https://hdl.handle.net/2027/uiug.30112059673571?urlappend=%3Bseq=22%3Bownerid=13510798903695399-26> [<https://perma.cc/L7J8-8P6J>]; IND. CONST. art. V § 1 (1936), <https://heinonline.org/HOL/P?h=hein.statecon/xxin0008&i=7> [<https://perma.cc/HNK2-DRLT>]; LA. CONST. art. V § 3 (1948), <https://heinonline.org/HOL/P?h=hein.statecon/xxla0196&i=54> [<https://perma.cc/WFZ6-63JL>]; MISS. CONST. art. V, § 116 (1934), <https://heinonline.org/HOL/P?h=hein.statecon/xxms0011&i=12> [<https://perma.cc/A85P-FX59>]; MO. CONST. art. IV, § 17 (1945), <https://heinonline.org/HOL/P?h=hein.statecon/xxmo0015&i=20> [<https://perma.cc/MFN9-YFAF>]; N.J. CONST. art. V § 3 (1939), <https://heinonline.org/HOL/P?h=hein.statecon/xxnj0010&i=10> [<https://perma.cc/6YPS-3XZX>]; N.M. CONST. art. V, § 1 (1949), <https://heinonline.org/HOL/P?h=hein.statecon/xxnm0044&i=24> [<https://perma.cc/AMN2-NX89>]; N.C. CONST. art. III, § 2 (1936), <https://heinonline.org/HOL/P?h=hein.statecon/xxnc0012&i=6> [<https://perma.cc/R9VH-X5TE>]; OR. CONST. art. V, § 1 (1934), <https://heinonline.org/HOL/P?h=hein.statecon/xxor0002&i=10> [<https://perma.cc/JP8J-NZZF>]; PA. CONST. art. IV, § 3 (1937), <https://heinonline.org/HOL/P?h=hein.statecon/xxpa0015&i=9> [<https://perma.cc/6D93-4PUT>]; TENN. CONST. art. III, § 4 (1870), <https://heinonline.org/HOL/P?h=hein.statecon/xxtn0009&i=11> [<https://perma.cc/KT9P-HLG4>]; VA. CONST. art. V § 69 (1945), <https://heinonline.org/HOL/P?h=hein.statecon/xxva0248&i=23> [<https://perma.cc/LP2Q-CK9R>]; KY. CONST. § 69-71 (1941), <https://heinonline.org/HOL/P?h=hein.statecon/xxky0012&i=25> [<https://perma.cc/F76D-J9LR>]; OKLA. CONST. art. VI, § 4 (1936), <https://heinonline.org/HOL/P?h=hein.statecon/xxok0003&i=16> [<https://perma.cc/AS5R-XTD9>]; W. VA. CONST. art. VII, § 4 (1936), <https://heinonline.org/HOL/P?h=hein.statecon/xxwv0006&i=14> [<https://perma.cc/2EBD-CYUZ>]; ARK. CONST. art. VI, § 1 (1937), <https://heinonline.org/HOL/P?h=hein.statecon/xxar0033&i=11> [<https://perma.cc/G358-SBMD>].

29. Law of May 10, 1950, ch. 171, 64 Stat. 150.

30. *See id.*

Committee for six consecutive years shall thereafter be ineligible for election during the two-year period following the expiration of such sixth year.”<sup>31</sup> Other federal statutes also include “successive” and “consecutive” language.<sup>32</sup>

These federal statutes enacted around the ratification period reinforce the notion that Congress knew how to employ the word “consecutive” or “successive” when approving the Twenty-Second Amendment. In fact, the Senate tried and failed to impose such limitation into the Twenty-Second Amendment.<sup>33</sup>

#### *D. Newspapers Discussed Nonconsecutive Terms*

Newspaper articles during the ratification period also support the idea that the Twenty-Second Amendment applies to any two terms, whether successive or not.<sup>34</sup> Of course, this Essay does not purport to have comprehensively reviewed every newspaper during the relevant period of 1947–1951, but initial searches in large newspaper databases reveal strong evidence that the Twenty-Second Amendment bars a third elected term.<sup>35</sup>

For example, newspapers from Texas, Iowa, and Pennsylvania all contain similar language. In Texas, the *Galveston Daily News* reported: “The pending anti-third term amendment, which, if it passes, will be the 22d amendment, makes no distinction between successive and non-successive terms.”<sup>36</sup> Furthermore, the *Uniontown Morning Herald* from Pennsylvania stated: “The pending anti-third term amendment makes no distinction between successive and non-successive terms.”<sup>37</sup> Similarly, the *Dubuque Telegraph Herald* from Iowa stated:

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31. Law of May 10, 1950, ch. 171, 64 Stat. 151.

32. See, e.g., 61 Stat. 842 (1947) (“No officer may be a member of two *successive* selection boards for the consideration of officers for promotion to the same grade, or for the consideration of officers for continuation on the active list in the same grade.”) (emphasis added); Law of Aug. 23, 1951, ch. 344, 65 Stat. 197 (“No person who has failed to liquidate his indebtedness under this section for seven *consecutive* years shall be eligible for loans hereunder until he has paid such indebtedness in full.”) (emphasis added).

33. 93 CONG. REC. 1938–55 (1947).

34. See *infra* notes 36–39.

35. Various searches were conducted in Newspaper Archive (newspaperarchive.com), from the period of January 1947 to December 1952, as well as on the Library of Congress online database for newspapers during that same period.

36. *Presidential Tenure*, GALVESTON DAILY NEWS, Feb. 22, 1947, at 4. <https://www.newspapers.com/image/23360516/> [<https://perma.cc/HN6H-UB88>].

37. *The Twenty-Second Amendment*, UNIONTOWN MORNING HERALD, Feb. 21, 1947, at 4, <https://newspaperarchive.com/uniontown-morning-herald-feb-21-1947-p-4/> [<https://perma.cc/G2AE-PSYB>] (also available on microform with the Uniontown Public Library).

The pending anti-third-amendment makes no distinction between successive and non-successive terms. If the proposal had been part of the Constitution at the time, it would have prevented Grant from seeking a non-successive third Presidential nomination in 1880 and Theodore Roosevelt from running for a non-successive third term in 1912.<sup>38</sup>

Other newspaper accounts are also in accord, as noted in the next Part.<sup>39</sup> It is true that some newspapers excerpts from 1951 suggest that the recently ratified Twenty-Second Amendment applied to successive terms.<sup>40</sup> Yet, these references seem to be limited in comparison.<sup>41</sup>

### *E. Newspapers Discussed Ten-Year Maximum*

After the Twenty-Second Amendment was formally ratified, newspaper articles suggested that the practical effect of the Amendment was that no person could serve more than ten years as president.<sup>42</sup>

38. *The 22<sup>nd</sup> Amendment*, DUBUQUE TEL. HERALD, Feb. 22, 1947, at 6, <https://newspaperarchive.com/dubuque-telegraph-herald-feb-21-1947-p-6/> [<https://perma.cc/88Z5-HWSZ>] (also available on microform with the Iowa State Historical Society).

39. *See infra* Part E.

40. For example, an advertisement that ran in the *McKinney Daily Courier Gazette* stated: “Did You Know -- The legislatures of 36 states have ratified the 22nd Amendment to the Constitution of the United States which will make it illegal for anyone to serve as President of the United States for more than two successive terms?” *Did You Know?*, MCKINNEY DAILY COURIER-GAZETTE, Apr. 3, 1951, at 4, <https://www.newspapers.com/image/1022565255/> [<https://perma.cc/8FF6-R8F2>]. Additionally, the *Heppner Gazette Times* from Oregon stated:

The right of the president of the United States to serve more than two successive terms was settled Monday when the states of Utah and Nevada, respectively, ratified the amendment to the Constitution. . . . Nevada . . . thus becomes the deciding factor in ratification of the amendment to limit the presidency to two terms.

*Nevada, Thirty-Sixth State*, HEPPNER GAZETTE TIMES, Mar. 1, 1951, at 6, <https://oregonnews.uoregon.edu/lccn/sn97071042/1951-03-01/ed-1/seq-6/> [<https://perma.cc/4EH2-Z7WX>].

41. These excerpts are a far cry from a widespread public understanding that the twenty-Second Amendment applied to successive terms. First, both references do not preclude the possibility of excluding both successive and non-successive terms. *See supra* note 40 and accompanying text. Second, there appears to be more robust newspaper evidence indicating that the Twenty-Second Amendment applied to all third terms, not just those served consecutively. *See supra* notes 35–38 and accompanying text. Third, the various reasons articulated in Sections II.A–C also apply to rebut the salience of these newspaper clippings. *See supra* Sections II.A–C and accompanying text.

42. *See infra* notes 47–50. Consider another part of the Twenty-Second Amendment: “[N]o person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.” U.S. CONST. amend. XXII.

The ten-year maximum limit is derived as follows. If a president dies or is removed from office at *exactly* the two-year mark, then the Twenty-Second Amendment permits the vice president who ascends to the presidency to serve out those two years, and then run for *two additional* four-year terms.<sup>43</sup> Thus, in the situation just described, where a president dies at exactly the two-year mark, the person assuming the presidency could serve a maximum of ten years as president.<sup>44</sup>

However, if the vice president ascends to the presidency *earlier* than the two-year mark of a presidential term, then the situation is different.<sup>45</sup> Rather, the former vice president who serves more than two years of the predecessor president's term could only be elected to one additional term.<sup>46</sup>

During the ratification period of 1947 to 1951, there was no social media, and presumably, newspapers constituted a major forum for distribution of ideas and information. Thus, the fact that the *New York Times* stated in 1951 that the Twenty-Second Amendment prevented an individual from serving more than ten years total as president may be especially important.<sup>47</sup> Specifically, when Arkansas ratified the Twenty-Second Amendment, the *New York Times* headline read: "ARKANSAS FOR TWO TERMS; Amendment to Limit President to 10 Years Voted by 30 States."<sup>48</sup>

Other newspapers also mentioned that the absolute maximum number of years that a person could serve as president under the new amendment would be ten years. For example, the *Daily Alaska Empire* in 1951 stated:

Ratification of the Twenty-Second Amendment to the Constitution has been completed by the necessary number of states and, as a consequence, tenure in the office of President has been limited to *two elected terms or to ten years* in case of succession from the Vice-Presidency. . . . It proclaims to the world that *no individual is so indispensable as to serve longer than ten years as the President of this Republic.*<sup>49</sup>

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43. U.S. CONST. amend. XXII.

44. *See id.*

45. *See id.*

46. *See id.*

47. *ARKANSAS FOR TWO TERMS; Amendment to Limit President to 10 Years Voted by 30 States*, N.Y. TIMES, Feb. 14, 1951, <https://www.nytimes.com/1951/02/14/archives/arkansas-for-two-terms-amendment-to-limit-president-to-10-years.html?searchResultPosition=1> [<https://perma.cc/9UUZ-WC8K>] (emphasis added).

48. *Id.*

49. *Presidential Limit: 10 Years*, DAILY ALA. EMPIRE, Nov. 29, 1951, at 4, <https://chroniclingamerica.loc.gov/lccn/sn83045499/1951-11-29/ed-1/seq-4/#date1=1951&index=3&date2=1951&searchType=advanced&language=&sequence=0>

Similarly, an *Associated Press* report from 1951 (reprinted in the *Washington Evening Star*) observed, “[A]ny future President would be limited to a maximum of 10 years in office.”<sup>50</sup> Again, the reference to ten years suggests that one can serve two elected terms of four years apiece, with the possibility of two additional years such as by ascension to the presidency from the vice presidency.

The key focus of this Essay is to rebut the nonconsecutive term argument. To be clear, others have hypothesized other ways for a president to serve a third term.<sup>51</sup> The newspaper accounts provided in this Part support the view that the public understanding during the ratification period was that the maximum number of years a person can serve as president is ten years.<sup>52</sup> Both the *New York Times* as well as the *Associated Press* published articles indicating that the maximum a person could serve as president was ten years.<sup>53</sup> Thus, even if these alternative mechanisms are somehow given credence, these newspapers offer some evidence for a public understanding of a ten-year total “cap” for one person to serve as president.

#### CONCLUSION

The weight of the evidence indicates that a president cannot be elected to a third term, despite the fact that the two previous terms are nonconsecutive. The Senate rejected the use of the phrase “successive terms,” while many state constitutions had analogous provisions. New Jersey contemplated such a provision the same year it ratified the Twenty-Second Amendment. Newspaper accounts from the ratification period also support a public understanding that the Amendment applied to both successive and non-successive terms. For these reasons, the Twenty-Second Amendment means what it says: “No person shall be elected to the office of the President more than twice.”<sup>54</sup>

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&words=Amendment+Constitution+Second+Twenty+Twenty-Second&proxdistance=50&rows=20&ortext=&proxtext=twenty-second+amendment&phrasertext=constitution&andtext=&dateFilterType=yearRange&page=1 [https://perma.cc/W6ET-7LJP] (emphasis added).

50. Associated Press, *Georgia 31st to Ratify Limit on Presidency*, WASH. EVENING STAR, Feb. 17, 1951, at A10, <https://chroniclingamerica.loc.gov/lccn/sn83045462/1951-02-17/ed-1/seq-10/#date1=1951&index=5&date2=1951&searchType=advanced&language=&sequence=0&words=Amendment+Constitution+second+Twenty+Twenty-second&proxdistance=50&rows=20&ortext=&proxtext=twenty-second+amendment&phrasertext=constitution&andtext=&dateFilterType=yearRange&page=1> [https://perma.cc/4UPZ-6A3R] (emphasis added).

51. See generally Coenen, *supra* note 6. Coenen argues the two-year durational limit could be subject to flaws. *Id.* at 1330.

52. See *supra* notes 47–50 and accompanying text.

53. See *supra* notes 47–50 and accompanying text.

54. U.S. CONST. amend. XXII, § 1, cl. 1.