**Université PARIS-PANTHÉON-ASSAS (PARIS II)** **U.E.C. 1**

**Droit - Économie - Sciences Sociales** L17031AT

**Session :**  Janvier 2023

**Année d'étude :**  2ème année de Licence en Droit

**Discipline :**  Anglais juridique

(Unités d’Enseignements Complémentaires 1)

**Titulaire(s) du cours :** Ekow Acquah et Amélie Ribieras

**Durée de l’épreuve :** 1h30

**Document(s) autorisé(s) : AUCUN**

# Les documents et les appareils électroniques ne sont pas autorisés.

**Exercises can be done in any order.**

*Ce sujet comporte 3 pages. Avant de composer, veuillez verifier que votre sujet est complet.*

**I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)**

1. The 10th Amendment…
2. Since the Articles of Confederation failed to…
3. While each state has 2…
4. For a bill to become a law…
5. In addition to enumerated powers…

**II. Read the following document and answer each of the questions below (approximately ten lines/ 100 words for each question). Use your own words. DO NOT QUOTE DIRECTLY FROM THE TEXT. (30 points)**

## “The Supreme Court Reform that Could Actually Win Bipartisan Support,” Jeffrey L. Fisher, *Politico*, 07/21/2022

(…) There is one idea, though, that has long-standing bipartisan support, a proven record of success, and practical wisdom behind it: term limits. Imposing term limits on Supreme Court justices would be good for the country and the court. It would help ease the bitterness of the confirmation process and make the court more representative of the public’s views. And while conservatives might currently balk[[1]](#footnote-1) in light of their 6-3 majority, it’s a change that would not necessarily advantage either side over the long run.

The most common version of this reform contemplates justices serving non-renewable 18-year terms, staggered so that one term ends every two years. This would mean that presidents would get to nominate new justices in the first and third years of their own administrations. Retirements and nominations would occur like clockwork. The result would be a court whose membership, at any given time, would reflect the selections of the past 4 1/2 presidential administrations. (…) [A]ll signs suggest that our system of life tenure for Supreme Court justices is, at best, an outdated relic of bygone times. Throughout the first 200 years of our history, justices served an average of 15 years on the court. Since 1970, the average tenure has almost doubled. Justices appointed today who are in their 40s or early 50s can be expected to serve between 30 and 40 years — maybe even longer. (...)

Such limits would also make Supreme Court appointments less random and more closely tied to electoral outcomes. (If we had term limits today, our court would consist of one Biden appointee, two Trump appointees, four Obama appointees and one Bush appointee.) There is no inherent good served when one president gets zero appointments and the next gets several. Nor is there any discernible benefit of having justices serve more than two decades, ever more removed from the commercial and cultural vibrations of our nation. Eighteen years is plenty of time to become settled into the role and to exercise the power of a Supreme Court justice.

Indeed, term limits would enhance the odds[[2]](#footnote-2) of justices serving on the court during the time when we would expect peak performance from them — that is, the optimal mixture of experience, wisdom and mental acuity. Why would we want to maintain a system that incentivizes presidents to put forth[[3]](#footnote-3) ever younger nominees? Under a system of term limits, the public would likely expect justices to be nominated in their late 50s or early 60s and to serve into their 70s.

Finally, and perhaps most importantly, there is good reason to think that term limits would reduce the political incentives (not to mention the rancor) surrounding retirements, appointments and the confirmation process. When justices are perceived — rightly or not — as trying to time their retirements so that presidents of particular parties can replace them, the public cannot help but think that Supreme Court voting patterns must be tied to politics, not law. By establishing known endpoints to justices’ terms, we could reinvigorate an apolitical feel to the comings and goings of justices. (…)

To be sure, so long as the Senate retains its constitutional “advice and consent” role, it would seemingly retain the power simply to block any presidential nominee not to its liking. One would hope that the public, under a system of regularized term limits, would not stand for any exertion of such raw political authority. But if any such practice developed (or if there were sufficient reason in advance to think it would), a further constitutional tweak[[4]](#footnote-4) may be in order.

Skeptics of term limits have raised a few other concerns. First, they argue that increased turnover on the court (compared to the past few decades) will lead to less stable law. But the converse seems just as likely: A steady stream of justices who are fresh to the institution might generate more deference to the institution itself. Putting aside the conservative movement to overrule *Roe v. Wade*, new justices are historically more willing to accept precedent as they find it. Moreover, if the reform indeed produces appointees that are somewhat older than those in recent years, the greater seasoning that often comes with age would likely produce justices in future years with more measured, and less revolutionary, views. (…)

Lastly, one might reasonably wonder why in the world we should favor a system that would result in *more* confirmation hearings. Have we learned nothing, one might ask, from recent history? In response, I will end where I began. The whole point of term limits would be to regularize the appointment and confirmation process; to make the nominations of new justices more unremarkable; and generally to lower the temperature regarding the court and its personnel. The reform would not be a panacea. But it would curb our worst instincts and tendencies that have developed in this realm. And that can only benefit the American people and the rule of law. (…)

**Questions:**

1) What plan does the journalist present in this article and why has it become a necessity?

2) What would be the pros and cons of such a reform?

3) Comment upon the underlined sentence.

**III. Choose ONE of the following topics and write an essay in approximately 300 words (+/- 10%). (50 points)**

1. Consider this quotation from 1835 in the context of the USA today: “The President of the United States enjoys almost royal prerogatives which he has no chance of exercising and those rights which he can at present use are very circumscribed.” (Alexis de Tocqueville, *Democracy in America*, 1835)

2) Does the US electoral system guarantee enough democracy?

1. to hesitate, to refuse [↑](#footnote-ref-1)
2. chances, probability [↑](#footnote-ref-2)
3. to put forward [↑](#footnote-ref-3)
4. adjustment [↑](#footnote-ref-4)