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Is Trump the De-regulator-in-Chief?

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Abstract

Abe Lincoln was a regulation cutter. Who would've known that?"

That line in a speech on December 8 by President Trump sent a number of pundits flocking to their history textbooks for fact-checking, especially after he followed it with the claim that, based on the numbers, he had actually exceeded Lincoln's first-year total. "That's pretty good for 10 months."

What the pundits found was largely what they looked for. *Blue State Daily's* Matthew Slivan smirked that "Trump likes to conjure comparisons to Abraham Lincoln," but "the truth is what you'd expect: Trump is a blowhard." Another reporter rang up former Democratic activist and chair of the Abraham Lincoln Bicentennial Commission Harold Holzer, who obligingly contributed the response, "If we hear a loud rumbling noise this Christmas season, it's Lincoln rolling over in his grave."

On the other hand, sending pundits to do historical research is like sending short-order cooks to do Julia Child. The results may be edible, but they won't look much like what the recipe described. [*excerpt*]

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Donald Trump, Abraham Lincoln, regulation, policy

Disciplines

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Was he wrong to compare his first year to Abraham Lincoln's?

“Abe Lincoln was a regulation cutter. Who would've known that?”

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On the other hand, sending pundits to do historical research is like sending short-order cooks to do Julia Child. The results may be edible, but they won't look much like what the recipe described.

The federal government inherited by Abraham Lincoln on his inaugural day in 1861 was a much smaller affair than our gargantuan bureaucracy. The federal statute books consisted of exactly 11 volumes, and while they teemed with regulatory provisions — directives to issue registers to coastal shipping, regulations for steamship passenger accommodations (“for the better protection of female passengers”), incorporation papers for a United States Agricultural Society, settling titles “to certain lands set apart for the use of certain half-breed Kansas Indians” — each of them might amount to no more than a thousand pages for a six-year-period.

Moreover, there were exactly fifteen formally-designated executive agencies on the day Lincoln became president (compared to 513 in 2010), including the Patent Office, the Pension Office, the Lighthouse Board, the Bureau of Weights and Measures, and the Mexican Boundary Commission, and few of them possessed regulatory authority of their own.

Purely on the numbers, Mr. Trump might not have had to do much regulation-slashing to outshine Lincoln, largely because Lincoln didn't have that much in the way of regulations to slash. In fact, almost to the contrary, the outbreak of the Civil War a

month after his inauguration pushed Lincoln into an unprecedented expansion of the federal government to deal with the crisis. The civilian payroll of the federal government blossomed from 40,000 to 194,000; the federal budget leapt from a meager \$77 million to \$1.29 billion in 1864-1865 (the fiscal year in which the war ended and in which Lincoln was assassinated).

Still, one should never underestimate Abraham Lincoln's instincts when it came to government. His maxim in explaining the role of government was that "The legitimate object of government, is to do for a community of people, whatever they need to have done, but can not do, at all, or can not, so well do, for themselves in their separate, and individual capacities." Apart from that, "In all that the people can individually do as well for themselves, government ought not to interfere."

And once in office, his concentration on the task of winning the war made him notoriously impatient with what he called "swampland matters" in the capital. He took one of the most contentious regulations in the statute books by the ear in his inaugural address, insisting that in the future the Fugitive Slave Law (which easily permitted free Northern blacks to be kidnapped and sold into slavery) would have to be restrained by the Constitutional requirement for due process.

Lincoln's penchant for simplifying "swampland matters" included issuing orders to ensure that Indian treaties were fully-funded, reducing rules for the condemnation and sale of captured blockade-runners, and mandating the acceptance of volunteer regiments with the curt injunction, "Let there be no further question about it." He upbraided Quartermaster-General Montgomery Meigs for refusing to buy six hundred mules because they were "of a size larger than the Army standard," and when General-in-Chief Winfield Scott refused to meet with Thaddeus Lowe, the inventor of the observation balloon, Lincoln sent him back to see Scott "once more about his balloon," and eventually got the balloons deployed on the next campaign.

He unhesitatingly overrode regulations governing the appointment of army chaplains, and tossed aside regulations on commissioning officers and insisted appointing "a Colonel for a colored regiment and this regardless of whether he can tell the exact shade of Julius Caesar's hair." He encouraged inventors and entrepreneurs to send him plans for new weaponry outside the usual military channels, and in 1863, he personally test-fired Christopher Miner Spencer's new breech-loading carbine. The result was a contract for Spencer, and dismissal for the Army's regulations-bound weapons chief, James W. Ripley.

Lincoln was following his instincts about regulations more than a plan. He had been elected on a platform which touted his record as "Honest Abe," the man who would clean out the bloat and corruption which had seeped into every cranny of previous administrations. But no one knew anything in 1861 about cost-benefit analysis or executive orders designed to hide unilateral decision-making from Congressional scrutiny or the modern pathologies of over-regulation or unilateral executive rule-making. The worlds inhabited by Lincoln and Trump are very different ones. But their basic instincts when it comes to regulation are not as far removed as time might suggest.

When President Trump wants to talk about turning away from government-by-regulation, we can certainly recognize at least a glimpse of the Lincolnian in it.

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