How to Actually Drain the Swamp?

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If Donald Trump's supporters could be said to share a single ambition, it would undoubtedly be the candidate's repeated promise to "drain the swamp." Some of his backers claim that their primary goal is to get back to pre-Covid economic prosperity, others want to reverse the influence of woke ideology, and of course many want to take back control of the border. Yet nearly all have what *New York Times* columnist Bret Stephens has termed a "visceral desire" to radically downsize what they see as a corrupt, unresponsive, and intrusive government bureaucracy.

Trump's own plan to accomplish this goal appears to rely heavily on issuing an executive order reviving an option known as Schedule F, which allows the president to reclassify members of the federal workforce in such a way as to remove their employment protections. In a <u>video</u> posted to X (formerly Twitter) last year, Trump said he would "wield that power very aggressively," identifying and rendering disposable those who have politically weaponized the nation's security and legal apparatus, perpetrated hoaxes, leaked sensitive documents, or inappropriately spied on American citizens. Then he would fire the guilty parties or move as many as 100,000 government positions away from the D.C. area to "places filled with patriots who love America."

Given the extent to which so many of the attempts to impede and discredit Trump over the years appear to have been facilitated by partisan bureaucrats, his yearning to purge the federal workforce, should he win in November, is perhaps understandable. Even if the Supreme Court were to uphold the inevitable legal challenges stemming from such a sweeping shakeup, however, Trump would soon find himself viewed by the public in one of two untenable ways: as either inflicting collateral damage on too many innocent public employees or, in his effort to weed out only those who "deserve it," undertaking a secular version of the Spanish Inquisition. In recent speeches, the candidate himself seems to have realized the danger of appearing too vindictive, reminding supporters that the best revenge is passing successful policy.

It is important to make America's public sector more efficient, more effective, and more sensitive to the rights of all citizens. There is an agenda for accomplishing this which, even if only partially enacted, would prove far more viable and perhaps more consequential over the long run than just issuing thousands of pink slips.

Restore the president's authority to prevent the wasteful spending of unnecessary funds. America's founders believed that the executive branch of the U.S. government had the right to refuse to spend any monies appropriated by Congress which turned out to be unnecessary for achieving its legislated goals—a power technically known as impoundment. As a result, presidents from Jefferson to Nixon were able to restrain the growth of the federal bureaucracy,

sometimes by refusing to pay out as much as 7 percent of the country's annual budget, but also by letting Congress know in advance that some proposed projects would be cut.

In 1974, the first post-Watergate Congress was finally able to divest the executive branch of this impoundment power, although periodic recognition of the need to control spending has inspired various attempts to find a substitute. In April of 1996, for example, President Bill Clinton worked with the Republican Senator Robert Dole to pass the Line-Item Veto Act, which empowered the president to eliminate entire programs. Unfortunately, this solution was seen as giving the executive branch too much power, and the Supreme Court declared it unconstitutional just two years later.

Either restoring the president's impoundment authority or passing a more limited line-item veto is such an important part of any real swamp-draining agenda that Trump himself has begun talking about it.

Take advantage of developments in e-government. According to a June 2021 study published by George Mason University's School of Policy and Management, artificial intelligence (AI) will soon make it possible to greatly reduce the number of public workers at all levels of government. Resolving fines and other low-level legal disputes, giving tax preparation advice, performing and interpreting medical tests, making welfare payment decisions, generating instructional publications, conducting background checks, negotiating contracts and processing claims, delivering mail, building and maintaining roads, detecting grant fraud—these are just a few of the many bureaucratic functions which could be performed just as well by computers as by humans.

Cutting an estimated third of all federal, state, and local employees may do little to change the ideological bias of those who remain, but recent research by McKinsey suggests the switch could save taxpayers at least $750 billion every year while simultaneously improving the overall quality of public services. Once more, it will dramatically shrink the dues paying membership of public worker unions, diminishing their capacity to fund left-wing politicians, supply liberal candidates with campaign volunteers at election time, and subsidize progressive ballot measures in states like California and Oregon.

Return to regular order in Congressional lawmaking. Much of the desire to drain the swamp clearly stems from the rising power of what is often called the "administration state," although as Thomas Firey, managing editor of *Regulation*, points out, this power is not nearly as conspiratorially exercised as many imagine. For while it is true that Congressional lawmakers, wanting plausible deniability for making unpopular rules, will often turn that task over to agency administrators, "the bureaucracy (itself) often doesn't like making those decisions and will try to duck them until courts hold their feet to the fire." The result is unpopular regulation "which Congress then rips (as) being either too strict or too lax, but Congress seldom then rewrites the law."

In times past, Congressional legislation went through a process called "regular order," which meant that bills were first sent to the most relevant House or Senate committee, where members had a chance to make amendments, then presented to the full chamber for additional deliberation

in full public view. But in recent years, leaders of both parties have attempted to shield their colleagues from having to take uncomfortable stands by bundling multiple bills into one large appropriation and bringing it to a vote so quickly that neither the voters nor even many legislators quite know what is in it.

A return to regular order would undoubtedly force lawmakers to take more heat from constituents, but it would also give clearer direction to those federal agencies charged with implementing the nation's laws. This, in turn, would go a long way toward making the federal bureaucracy more responsive to public opinion.

Support federal legislation which would allow heavily indebted states to declare bankruptcy, just as financially troubled companies, cities, and counties have always been allowed to do. Much of the reason for wasteful and inefficient bureaucracy at the state level stems from the lack of any legal mechanism to enforce budget discipline. As Yale Law School's Professor David Schleicher notes in his book, *In a Bad State*, public unions would be a lot more responsible about their wage, benefit, and work rule demands if they knew that a bankruptcy judge could someday slash both—just as those investors who fund state deficits would demand far more accountability from local government if they knew that the value of their municipal bonds could be similarly reduced.

As it is, profligate states are typically bailed out by Democratic presidents with legislation that not only camouflages the rescue but, because state debt has effectively been turned into federal debt, only aggravates the entire country's fiscal problems. It is not a coincidence that President Biden's American Rescue Plan Act of 2021—billed as a Covid-19 stimulus package but primarily designed to reduce blue state liabilities—sparked a bout of inflation which has still not retreated to an acceptable level.

Phase out the over $1 trillion dollars that Congress spends annually on education, housing, transportation, and other local programs. Not only is it needlessly complicated to send the tax revenue to pay for such activities all the way to Washington, only to send it back to the states, but this practice allows federal authorities to tack on expensive and unrelated programs as a condition for localities to use their own taxpayers' money. As the Cato Institute's Chris Edwards has put it, federally funding local programs requires "more layers of wasteful bureaucracy" and "spends more on the subsidized activities than residents would favor if they were directly footing the bill."

Again, what is important to recognize about all five of the above swamp-draining proposals is that they promise to accomplish the job far more effectively than either wholesale firings or selective prosecutions. The arrogant and inappropriately partisan bureaucrats whom Trump would like to purge from the federal bureaucracy do exist, perhaps even in significant numbers, but they are far less the cause of the country's dysfunctional governance than the most visible—and therefore aggravating—symptom.