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Jonah Goldberg commentary: The growing powers of a shrinking presidency

Of all the time-honored failings for which we criticize sitting presidents — by “we” I mean pundits, academics and other members of the chattering phylum — two charges stand out: imperialism and shrinkage. Usually it’s one or the other.

When the president is unpopular or when he’s lost control of his agenda or when he just seems inadequate to the demands of the job, the headline “The Incredible Shrinking Presidency” proliferates like kudzu. When the Republicans lost control of Congress in 2006, *The Economist* proclaimed “The Incredible Shrinking Presidency” of George W. Bush on its cover. Barack Obama has been diagnosed with presidential shrinkage many times, including in *Politico*, *The New York Times* and my own *National Review*.

The flip side of the shrinking presidency is the imperial presidency, something we’ve been fretting about by name since at least Franklin Roosevelt and in principle since the founding.

Politically, what is remarkable is that Obama seems to be doing both at the same time. His “Year of Action” — intended to dispel that lame-duck scent — is simultaneously Caesar-like and pathetic. (Maybe the presidential seal should depict that dude from the Little Caesars pizza commercials?) Last week, he announced that he would unilaterally raise the minimum wage for federal contractors seeking new work. Only 1 percent of the workforce makes the minimum wage, according to the Bureau of Labor Statistics, and vanishingly few of them work for the federal government. This probably explains why the White House wouldn’t give an actual number when asked how many people his bold action would benefit.

Yet, at the Democratic retreat last week, Obama threw cold water on the idea that he could do much more on immigration from the Oval Office, saying there are “outer limits to what we can do by executive action.”

Some of his unilateral actions are a bigger deal, of course. The Environmental Protection Agency’s decision to treat carbon dioxide as a “pollutant” is an outrageous expansion of executive power. But Obama doesn’t tout that as a bullet point; he let the EPA take the political heat for that decision a while ago. His multiple unilateral revisions to Obamacare run the gamut from desperate tinkering to outright lawlessness. But flop-sweat panic to compensate for executive incompetence and to fend off a rout in the midterms doesn’t exactly project presidential boldness, either.

The “Year of Action” should actually be seen as a replay of President Bill Clinton’s small-ball comeback after the 1994 midterms. Clinton picked micro-initiatives — school uniforms, the V-chip, etc. — that poll-tested well but amounted to very little in terms of policy. The clever twist Obama is putting on his micro-agenda is doing it in a way that successfully baits opponents into making the case that he’s more powerful and relevant than he really is.

Substantively, however, the imperial presidency continues to metastasize. “The presidency,” the Cato Institute’s Gene Healy has written, “keeps shrinking, but — with an executive branch of some 2.1 million civilian employees and counting — it never gets any smaller.” As a branch of government, it has grown under Republicans and Democrats alike. Some curbs were put on the office under Richard Nixon because of Watergate, and because Democrats don’t like it when Republican presidents behave like Democratic ones.

“Those who tried to warn us back at the beginning of the New Deal of the dangers of one-man rule that lay ahead on the path we were taking toward strong, centralized government may not have been so wrong,” Democratic Sen. Alan Cranston of California remarked in 1973 during Watergate.

That’s a lesson Democrats would do well to ponder, because they are rhetorically giving Obama license to do whatever he likes. Rep. Sheila Jackson Lee, D-Texas, recently declared that the priority for her and her comrades should be to draft executive orders — not laws — for Obama to sign. Rep. Xavier Becerra, D-Calif., suggested on *Fox News Sunday* that the president could rewrite Obamacare at whim because the Constitution gives him the power to act during a national-security threat. And of course, Sen. Harry Reid, D-Nev., blew up the filibuster rules for appointees.

They shouldn’t be surprised if the next Republican president takes advantage of that license.

Jonah Goldberg is editor at large of National Review Online.

jonahscolumn@aol.com