

Lincoln's Use of the Presidency to Effect Change--

A Model for Presidents in Advancing Equal Rights for Women?

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prepared for the Wepner Symposium on the Lincoln Legacy and

Contemporary Scholarship

October 20-21, 2011, Springfield, Illinois

There is no question that Lincoln's legacy to the American political system includes the establishment of ongoing expectations of what it is that a President can do, and even should do. Lincoln is known for precedents set in going beyond the formal powers, either Constitutional or statutory, of the Office of the President in order to effect change. Yet Lincoln was an astute and pragmatic politician. He was successful in limiting his focus, using the powers he had, and realizing how difficult it is for presidents to bring about change.

In this brief talk I want to focus on one area in which a president's actions tend to either be overlooked, overstated, or unknown. That is, the case of constitutional amendments. I will draw upon the case of Abraham Lincoln and the 13th Amendment, and then turn to the modern presidential era and look at the case of John F Kennedy and the fate of the Equal Rights Amendment. Two other Presidents who also had to confront the issue of what can a President do in regards to constitutional Amendments include the cases of Woodrow Wilson and Jimmy Carter. Of these three presidents, in regard to the amendment approach, the

actions of John Kennedy had the most positive outcomes effecting change in regards to equal rights for women.

We expect presidents to act, but often presidents are working from a script. Presidents base their actions on precedents from previous administrations. An agenda is already in place. presidents respond to actions of Congress. A government is already in place when they take the oath of office. And in fact, presidents are limited in the actions they can take since Congress creates the structure of the executive branch-- departments, agencies, bureaus, and personnel.

Presidents need to move quickly to effect change. Abraham Lincoln only lived to see one of the three Civil War Amendments added to the Constitution before his assassination. The President's role is not included in the steps of adding an amendment to the Constitution. In fact the power to add an amendment to the Constitution was left in the hands of Congress, the States, and in the hands of the people.

It is also important to note that at the time Lincoln was president, there were only 12 amendments that had been added to the Constitution and all 12 amendments had come by 1804, just 15 years after the Constitution was ratified. No new amendments had been added to the Constitution in 60 years.

In September 1862 President Lincoln prepared the Emancipation Proclamation which was to be published in January 1863. Lincoln knew that the Emancipation Proclamation was not going to end slavery as known at that point in history. In order to effect change, an amendment to the Constitution was needed. After all, the Constitution included language acknowledging the existence of slavery. In addition,

the 13th Amendment included language new to an amendment, but language that would be added to subsequent amendments. "Congress shall have power to enforce this article by appropriate legislation." There was a clear understanding that in order to effect change, Congress would have to take further steps. [A century later, a series of laws are passed which attempt to get at the vestiges of slavery: A Civil Rights Commission; the 1964 Civil Rights Act; the Voting Rights Act of 1965, adding enforcement powers to the Justice Department.]

The 13th Amendment, abolishing slavery, had passed the Senate on April 8, 1864. Lincoln had insisted that the Republican party platform in 1864 include a plank supporting the abolition of slavery in order to ensure approval by the House of Representatives. With the lobbying efforts of President Lincoln the House finally went on to pass the amendment in January 1865, an act Lincoln himself could witness. The House of Representatives approved the 13th amendment on January 31, 1865, and Lincoln signed that resolution, along with the Speaker and President of the Senate on February 1, 1865. Lincoln would not live to see ratification of the 13th amendment by the states.

The 14th and 15th amendments would come after the death of President Lincoln. Given that Lincoln's position on issues of suffrage for women are known, with Lincoln on record in favor of women's suffrage as early as 1836, we don't know whether he in fact would have pushed for inclusion of women's suffrage in the 15th amendment, if he had lived.

We do know that the Democratic and Republican party platforms in 1868, did not include provisions regarding equal rights for women, and in 1872, the Republican

Party platform stated "the Republican party is mindful of its obligations to the loyal women of American for their noble devotion to the cause of freedom. Their admission to wider fields of usefulness is viewed with satisfaction, and the honest demands of any class of citizens for additional rights should be treated with respectful consideration." While the abolition of slavery is in the 1864 Republican Party platform, suffrage is not.

We also know that the legacy of Abraham Lincoln in discussing issues of equal rights for women, is seen in the Republican Party platforms up until the 1980 election. The Republican Party platform embraces equal rights for women to a greater extent, and earlier than is the case for the Democratic Platform.

Woodrow Wilson and Jimmy Carter

Turning to the 20th century, in spite of the 19th amendment allowing women's suffrage passing Congress and being ratified while Woodrow Wilson was in the White House, President Woodrow Wilson was not a supporter of the 19th Amendment, and tolerated women chaining themselves to the gates of the White House in protest until the suffrage amendment was added. Women protested their lack of basic human rights. They especially protested when living in a democratic society with a rhetoric of equal participation.

During his first term, President Wilson spoke eloquently of the deprivation of political rights to many in countries around the world, but failed to see the irony in his not addressing the issue of voting rights for women. Rather than take a leading role in advancing women's rights by drawing attention to the suffrage Amendment, Wilson

chose to wait, until the amendment drive neared an end, before signing on to the cause. States were taking the initiative in granting women the right to vote and it wouldn't be long before enough electoral college votes came from states where women had the vote.

Yet, less than 30 years later, President Truman evokes the memory of Woodrow Wilson as the leader in the push for women's suffrage. Not surprisingly the same impetus that finally moved Wilson to support suffrage, that is , a growing number of states which had given women the right to vote, led Truman to tell women shortly before the 1948 election that they held the balance of power in this election. He noted that women had one and a half million more votes than did men, undoubtedly due to the loss of life of so many soldiers during World War II.

The precedent set by President Lincoln , in actively working for support for a constitutional amendment was not the case for President Wilson. Once the amendment was sure to have sufficient support, only then did Wilson sign on in support.

Since the 19th amendment was added to the Constitution in 1920, each president in the 20th Century faced an opportunity to take a lead on an agenda that included political and civil rights for women. Many presidents rejected this opportunity. In the 100 years following the Seneca Falls Convention on the Rights of Women from 1848 to 1948, not one president mentioned the Convention or the Declaration of Sentiments until President Truman mentioned Seneca Falls in courting the extra million and a half votes held by women in the election of 1948.

Presidents do not have a direct role in the addition of amendments to the Constitution, but there is an expectation and belief that Presidents influence the fate of Amendments. President Jimmy Carter's battle with Senator Ted Kennedy to win renomination as the Democratic Party's standard bearer in the 1980 presidential election had much to do with dismay at his failed leadership in guiding the Equal Rights Amendment to ratification.

However, President Jimmy Carter was limited in the role he could play in the ratification process, and his agenda for women went far beyond the Equal Rights Amendment, bringing issues of family and medical leave, and pensions to the table.

John Kennedy and the Equal Rights Amendment

Just after World War II came to an end, John Kennedy, as a newly elected member of the House of Representatives, was assigned to the Education and Labor Committee . He benefitted from the tutorials of a top labor lobbyist, Esther Peterson, from the Amalgamated Clothing Workers of America. She continued her work with Kennedy during his Senate years as a representative from the AFL-CIO, and served in his administration from the start, first as Director of the Women's Bureau.

The Equal Rights Amendment, an agenda item for a number of organizations once women's suffrage was attained, was an issue that the new President had to face. Historically, since the early years of the 20th Century, support for an ERA was split: the women's labor movement favored the protective status given women

workers. however, other women's organizations, including business and professional women, favored an ERA.

The movement for an ERA was separate from the Civil rights movement of the 1960s, and women's rights received the attention of President Kennedy before the civil rights movement . The Civil Rights movement pushed for legislation to finally add implementation and enforcement provisions to the arsenal of the Justice Department, legislation Lincoln had envisioned as necessary for enforcement of the 13th, 14th, and 15th, amendments.

The battle among supporters and opponents of the ERA was so intense that in 1960, in the midst of the presidential campaign, Kennedy's signature was forged through the use of an autopen, on Kennedy campaign letterhead indicating his support for the amendment, when, in fact, he opposed the amendment. With Esther Peterson as his advisor, the Kennedy White House opposed an Equal Rights Amendment.

The Democratic Party had long opposed the Equal Rights Amendment for fear that in providing equal rights for women, protective labor legislation for women, would disappear.

In an attempt to respond to growing interest in an Equal Rights Amendment, the President, on the advice and recommendation of Esther Peterson, established a President's Commission on the Status of Women. Kennedy's approach, as well as an approach taken by several other presidents in that era, was to take advantage of blue ribbon panels, with experts, whose recommendations would be widely read, and taken into account by policy-makers.

The bi-partisan membership of the President's Commission on the Status of Women was high-powered. The Chair of the Commission was Eleanor Roosevelt. Also serving on the Commission were key members of House and Senate Committees, Cabinet members, heads of non-profit organizations, business leaders, leaders of labor union, and educators. The Commission was designed to force action. Legislation needed to be passed; policy changes needed to be carried out by government officials.. AT the time of the announcement of the Commission, Kennedy noted that "women have basic rights which should be respected and fostered as part of our Nation's commitment to human dignity, freedom and democracy. "

Kennedy's approach to advancing rights was to draw upon experts, and key decision makers both in Congress and in his own Cabinet, and in including representatives of key outside groups. By including the Chair of the Civil Service Commission on the Commission , when the Commission decided to bring about immediate action in an area in which the President can act--i.e., as manager of the government, Macy immediately followed through on the recommendations of the Commission. So while the Commission was still gathering data, in a wide range of areas from child care to pensions for women, to discrimination in the work force, steps were taken to immediately open up civil service jobs to women. A practice had developed over the years in which an agency could post a job vacancy, and list the qualifications for the job, but also specify the sex of the individual for the job.

What the President's Commission on the Status of Women recommended, and what John Macy, head of the Civil Service Commission did, was to change the

assumptions in job postings. Rather than identify a job as sex specific (as was being done for most jobs in the federal workforce) the questions would be turned around. If a certain sex is required for a job, a detailed explanation of why the job was sex-specific was needed to accompany each job announcement. As is true in other areas, those posting jobs soon found it far easier to not indicate a specific sex for each job, with the required detailed explanations to why that job was only suitable for men or women. Outright sex segregation in the federal workforce by job came to an end in a relatively short fashion.

This is not to say that sex discrimination was outlawed, or sexual harassment came to an end; it would take several more decades to begin to make progress on that front.

The Commission's work focused more specifically on issues of equality in the workforce--equal pay and benefits, equal access to jobs; opening up jobs to women in the federal sector; and opening up jobs in businesses that had federal contracts. In the area of political and civil rights, the commission focused on jury service and property rights. In the 1960s, not all states allowed women to serve on juries or to own property. Not owning property precluded women from owning a business and gaining the status in society needed to broaden the applicant pool to include women for political appointments or elective office.

Conclusion

While the approach taken by Abraham Lincoln did not lead to progress on an Equal Rights Amendment for Women, the **expectation** was created that a

President should act, even in the area of constitutional amendments, in which there is no constitutional or statutory power. President Wilson was expected to lead in winning women's suffrage; Presidents in the 1960s, 1970s, and 1980s were expected to work for an Equal Rights Amendment. President Kennedy was successful in taking alternative strategies for action, especially in areas he already had formal authority, i.e., as manager of the executive branch.

At the time the 15th Amendment is added to the Constitution, suffrage for women is not included. Neither Party's platform called for women's suffrage at that time. However, the legacy of Lincoln in advocating for rights for women is reflected in the Republican Party's Platform for over one hundred years. The Republican Party will take the lead in advancing the rights for women until 1980.

Further reading:

For further information in this area, consult: *The Presidency and Women: Promise, Performance and Illusion* (Texas A & M University Press, 2003); and the on-line *The Presidency Project*, which includes the texts of all party platforms, and presidential actions and speeches.