

As the choice of Scott Pruitt to head EPA confirms, we're about to face a radical attack on environmental protection. We've seen this movie before. Three times, actually, starring Ronald Reagan, Newt Gingrich, and George W. Bush. So this feels in a way like the fourth installment in a horror film franchise. Call it "Return of the Reg.-Eating Zombies, Part IV."

Here are some quotes from the 1980 and 2016 Republican platform. They're pretty hard to tell apart:

**"Another proposal long advocated by our Party is the drive to encourage the entrepreneur by reform of the regulatory laws which stifle the very life of business through fines, threats, and harassment. Republicans realize the immediate necessity of reducing the regulatory burden to give small business a fighting chance against the federal agencies."**

**"It is long past time for just tinkering around the edges of a bloated and unresponsive bureaucratic state. Its poorly managed programs, some begun generations ago, are ill-suited to meet present needs and future requirements."**

**"Government regulation produces many indirect immeasurable costs as well and has led to increased bureaucratization of industry. Regulation also restricts personal choices, tends to undermine America's democratic public institutions, and threatens to destroy the private, competitive free market economy it was originally designed to protect."**

**"We propose to enact a temporary moratorium on all new federal regulations that diminish the supply of goods and services and add significantly to inflation. Such a moratorium will be consistent with the goal of achieving a safe and healthy working environment. We shall work to reduce substantially the regulatory and paperwork burdens on small businesses."**

If you're curious, quotes 1 and 3 are from 1980, 2 and 4 from 2016. The GOP has been nothing if not consistent in anti-regulatory zeal. And there was another installment in-between, represented by Newt Gingrich's 1994 ["Republican Revolution"](#) in the House of Representatives. Not surprisingly, Gingrich turned out to be one Donald Trump's earliest, most fervent supporters.

The first installment in the series was in 1981. About a month before the election, the first edition of my environmental law casebook with Roger Findley had appeared in print. When Reagan was elected, I remember one of my colleagues wittily telling me that at least the

book could still be used for legal history courses. I suspect now that the remark was meant in sympathy. The colleague's son went on to take a leadership position in a major environmental organization and serve in the Clinton Administration. But at the time, the joke had real sting. It didn't look like there was going to be much left of environmental regulation by the time Reagan got done with it. At the very least, it seemed likely that the major environmental statutes would be dramatically pruned. Reagan appointed [Anne Gorsuch](#), an inexperienced arch-conservative, to run EPA. To run Interior, he picked [James Watt](#), an anti-environmental zealot who seemed to view the very existence of wilderness as a personal affront. Within a couple of years, however, both of them had run aground and left office, to be replaced with more pragmatic professionals.

The second time was 1994. Newt Gingrich's Republicans had just won control of the House of Representatives, based on what they called the "[Contract with America](#)." The "Contract" called for an assault on federal regulation, and Gingrich & company did their best to comply. But it turned out that the public was less enamored of increased pollution and wilderness destruction than they were. They too backed down, helped along by some clever maneuvering by Bill Clinton to make environmental regulation more market-friendly.

The third time was 2001. George W. Bush had taken office, posing as a moderate. Once in office, he cast aside his moderate garb, abandoned a campaign pledge to regulate CO<sub>2</sub>, and launched his own assault on environmental protection. His path was laid out by a task force directed by Dick Cheney - a task force dominated by the fossil fuel industry. Having learned from the Gingrich and Reagan experience, Bush generally didn't seek large, highly visible changes in environmental statutes. Instead, he operated under the radar, expanding regulatory loopholes, stalling mandated rules, and cutting enforcement to the bone. His EPA was not infrequently slapped down by the courts for ignoring statutory language or scientific evidence. The end result was to stall environmental progress, but not to derail it in the long-term.

So today is the fourth installment. Much about the political dynamic has remained unchanged. The Republican deregulatory platform, vociferously endorsed by Trump during the campaign, has remained unchanged. So, by and large, has public support for environmental protection. All of that suggests that we might get the same outcome, with a standoff between environmental and environmental forces.

But some things have changed, as well, in both directions. Trump promises to be a more disruptive political force than his predecessors, and the GOP as a whole has moved in a more radical conservative direction, making it harder for defenders of the environment to find allies in Congress. On the positive side, the Democrats may be more unified in opposing

this program, given the virtual extinction of the Southern wing of the Democratic Party. For better or worse, the country is far more polarized than in 1981, 1994, or 2001.

There's no guarantee that this fourth anti-regulatory assault will cause as little long-term damage as its predecessors. But there's at least reason to hope that like the others, it may be worn down by a combination of guerrilla warfare and pro-environmental public opinion. The key will be mobilizing the general public, which generally favors environmental protection but only rarely views it as a pressing political issue.