



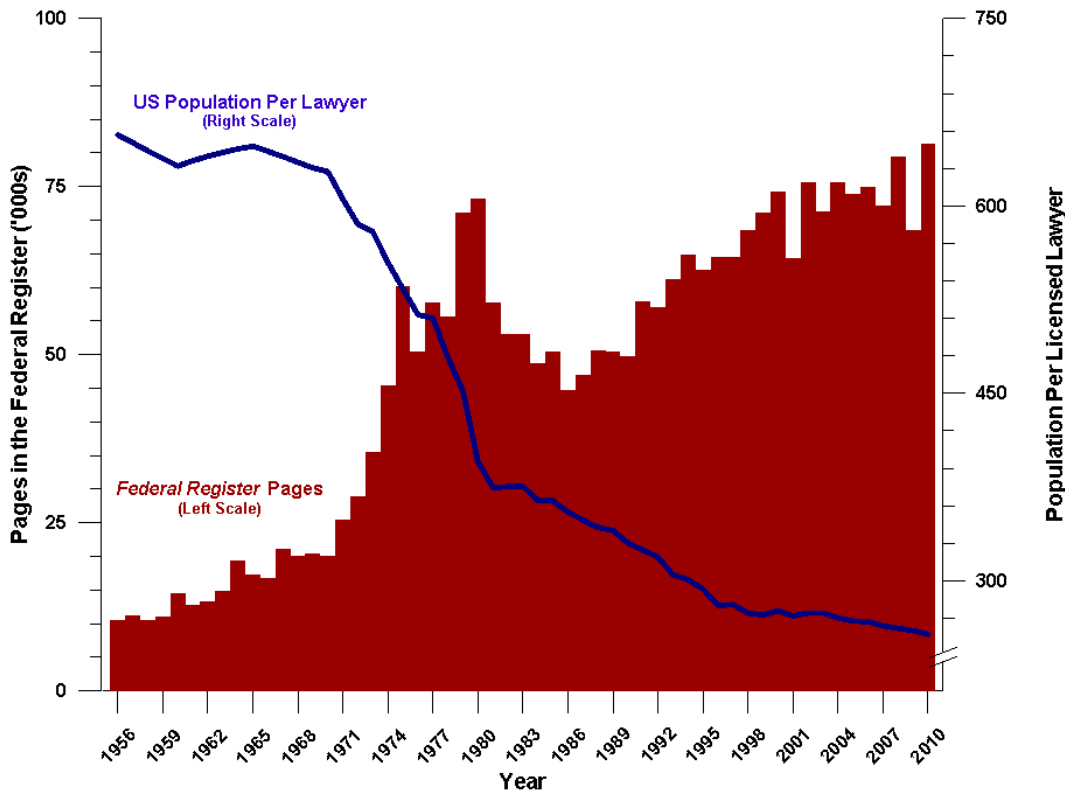
# Straight from the Muse

## Reflections of a Worldly Philosopher

### Commonsense is not so Common

#### Supply Creates Its Own Demand

Trends in the Pages Published in the *Federal Register* and Practicing Lawyers  
Annual -- 1956 to 2010



**Notes:**

Statistics for the number of pages published annually in the *Federal Register* were obtained from 10,000 Commandments by Clyde Wayne Crews Jr., published by the Competitive Enterprise Institute.

(Sources: US Census Department; American Bar Association; Competitive Enterprise Institute; Worldly Philosopher estimates.)

Or, so quipped Voltaire, the French philosopher and satirist, well over 250 years ago. Because that innate, practical compass to distinguish the right from wrong action in most day-to-day situations is not broadly (nor uniformly) spread throughout the human race, governments are constituted, laws enacted, and courts appointed to provide the necessary guidelines for men in order to forestall anarchy.

It is the rare (and, perhaps, odd) legislative body which exercises self-restraint in

adding to the laws enacted to govern society. This is the logic behind Thomas Jefferson's belief that every law enacted should have a sunset clause written into it. Jefferson argued that each generation was in essence a foreign nation to the one that followed; consequently, the wisdom of generations past should be re-affirmed by the current and not presumed to meet the requirements of the present day.

In a Jeffersonian world, legislators are kept busy reviewing and revising laws en-

*"What is bureaucracy? An arrangement of individual incompetences for the purpose of general responsibility."*

Anton Kuh (1890 to 1941), Austrian Journalist and Commentator

*"By continuing a process of inflation, government can confiscate, secretly and unobserved, an important part of the wealth of their citizens."*

John Maynard Keynes (1883 to 1943), British Economist and Political Commentator

*"Corporation, n. An ingenious device for obtaining individual profit without individual responsibility."*

From the *Devil's Dictionary*

Ambrose Bierce (1842 to 1913?), American Journalist and Writer

Yeah, I am on Twitter too. Follow my sporadic tweets at [my-museclio](#).



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*"A good politician is quite as unthinkable as an honest burglar."*

H.L. Mencken (1880 to 1956),  
American Man of Letters

*"I am a firm believer in the people. If given the truth, they can be depended upon to meet any national crisis. The great point is to bring them the real facts."*

Abraham Lincoln (1809 to 1865),  
16<sup>th</sup> President of the United States

acted in the past. New legislation could (and would) be enacted. Urgent circumstance and necessity would dictate additions. But since such exigencies are not everyday occurrence, legislators would not be given reason everyday to multiple the nation's laws.

We imagine Jefferson was not only concerned with the "dead hand of the past" imposing itself on a new generation; but also on constraining the effect a steady accumulation of laws would have on society and the economy. Of the Founding Fathers, Jefferson was a minimalist on the subject of government. Certainly we know from his correspondence he feared the consequences of a steady expansion of the government's reach.

In his day there was nothing comparable to today's array of federal agencies — a veritable alphabet soup of administrative departments — most of which are authorized by Congress to create their own respective corpus of rules and regulations (in addition to the U.S. Code authored and enacted by the House and Senate). The concept, in terms of the U.S. experience, is a relatively recent innovation. Few of these agencies existed in Jefferson's day. Most are 20th Century creations with many tracing their origin to the New Deal and later. Hence it was only in 1946 that Congress standardized policies for such agencies in the Administrative Procedures Act. Today there are more than seventy rule generating Federal agencies.

One barometer of the expansion of their reach is the explosion in the number of pages published annually in the Federal Register. A regulation is not a regulation until it appears in the Federal Register: it is the organ by which all administrative law crafted by federal agencies is made public. Over the past twenty years, the number of pages published annually has increased 63 percent. Over the past forty years, the annual page count has more than tripled.

This trend is mirrored, and perhaps helped spur, a growth in the legal profession in the United States. Over the past forty year, the number of lawyers per capita has steadily increased. In 1970, there was one lawyer per 627 Americans. By 2010, the ratio had declined to 1 lawyer per 257 citizens. As a yardstick, consider as of 2009, there is just one practicing physician per 417 Americans.

A counterpoint is that a modern, technologically sophisticated society needs a more extensive and complicated set of regulations. True. Point taken. But when the rules themselves become a persistent source of complexity, then, perhaps, a re-evaluation of regulations, individually and collectively, is in order. In the aggregate, no one truly knows the economic cost exacted by the proliferation of administrative ordinances. Maybe it is time to heed Jefferson's advice by putting a shelf-life on such regulations.



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*"Nature abhors a moron."*

H.L. Mencken (1880 to 1956),  
American Man of Letters

*"An unlimited power to tax involves, necessarily, the power to destroy."*

Daniel Webster (1782 to 1852),  
American Senator, Statesman and Jurist

*"It will be to little avail to the people that the laws are made by men of their own choice if the laws are so voluminous that they cannot be read, or so incoherent that they cannot be understood."*

James Madison (1751 to 1836),  
American Political Theorist and 4<sup>th</sup>  
President of the United States