The Washington Times January 6, 2015

The Republican Congress Sizes up Big Government

BY RICHARD W. RAHN

THE GOP'S MOST FORMIDABLE ADVERSARIES ARE NOT DEMOCRATS, BUT BUREAUCRATS

What is the greatest obstacle confronting the new congressional Republican majority in enacting good policy? It may not be President Obama, because there is an even more formidable force in Washington that crushes good policy: the permanent bureaucracy. The permanent bureaucracy is made up of federal employees, government contractors and their employees, congressional staff and the special-interest lobbying community (including law and accounting firms). It also includes the media establishment, which depends on leaks and information from those in government for stories in exchange for protective coverage.

Hardworking taxpayers never cease being ripped off by wasteful and fraudulent government spending and regulation. Unlike what happens in the private sector, people in government rarely go to jail or are even fired for financial misconduct.

The government requires financial and senior officers of companies to sign off on the accuracy of their financial statements in order to protect stockholders. Company officers are subject to civil and criminal penalties, including jail time for misstatements, and their names are released to the press.

There is no reason for taxpayers to be any less protected than stockholders from financial negligence or fraud. If the Justice Department fails to act, private parties representing taxpayers should be given standing to sue individual government employees who fail in their fiduciary responsibilities — and the government should be required to disclose the names of all of those who signed off on any expenditure of taxpayer dollars (other than those involved in national security).

If private persons attempt to extort money from you, they can be held criminality liable. The False Claims Act protects the government from those who would engage in financial fraud against it. Yet, the Internal Revenue Service tries to shake down many taxpayers who, in fact, owe nothing or owe far less than the agency claims. Usually this occurs because the IRS employees fail to learn the law they are supposed to administer. At times, the IRS has been known to target individuals or groups for political or personal reasons. One way of putting a stop to this is to require that any request to a taxpayer for payment be signed by an actual person who takes responsibility for the demand — and who can be held personally liable for neglect or abuse.

Over the last few months, there have been many stories in major media (including this newspaper) about the abuses of "asset forfeiture" laws, whereby the assets of people who have not been convicted of any wrongdoing have been seized by government agents, and often not returned. The abuses have become so widespread that first two directors of the Justice Department's Asset Forfeiture Office, Judge John Yoder and Brad Cates, wrote an article, "Government Self-interest Corrupted a Crime-fighting Tool into an Evil," recently published in The Washington Post, where they argued that "asset forfeiture" is beyond repair and that the practice should be abolished.

If you ask people outside the permanent bureaucracy whether any regulation should have more benefits than costs and not abuse the liberties granted to the people by the Constitution, overwhelmingly people will say "yes." Despite paying lip service to the idea of cost-benefit analysis by those in government, few regulations are actually subjected to serious and independent analysis.

A particularly outrageous example of extremely destructive regulation for which no cost-benefit analysis was ever made is the nice-sounding Foreign Account Tax Compliance Act. The act is driving hundreds of billions of dollars of investment and business out of the United States, destroying many jobs and making life miserable for millions of people around the planet, including almost all Americans living abroad (because they are refused bank accounts in many countries).

The proponents of the act claimed that it would produce a few hundred million dollars in additional tax revenue, but owing to the volume of business and jobs being destroyed, the act will most likely cost the Treasury hundreds of billions of dollars of tax revenue over the years. The requirements are incomprehensible to Americans and foreigners alike, making it less likely that foreigners will buy U.S. goods and services.

In case you think I overstate the problem, go online and look at IRS form W-8BEN-E. It requires that any U.S. taxpayer who has non-product-related transactions with a foreign entity must receive the completed IRS form from the foreign entity or be subject to a 30 percent withholding on the payment.

There are members of Congress who will support common-sense solutions to the abuses described above, but they will be opposed by many in the permanent bureaucracy (including some members of their own staff) who hate the idea that they should be held accountable for their actions. The open question is whether the new Republican Congress has enough backbone to require that government employees be held accountable and to require real cost-benefit analyses for any regulations that curtail job or economic growth, or that destroy liberty. Or will the permanent bureaucracy win again?

Richard W. Rahn is a senior fellow at the Cato Institute and chairman of the Institute for Global Economic Growth.

http://www.washingtontimes.com/news/2015/jan/5/richard-rahn-republican-congress-sizes-up-big-gove/