

Take a view Do we really need more government regulations?

By Les Smith

In retrospect of our recent Fourth of July celebrations at Lake Wylie, I am reminded [government](#) is supposed to be "of the people, for the people, and by the people" but it now seems to be more "of the politicians, for the politicians and by the politicians."

Although most lawyers are not politicians, most politicians are lawyers. For example, my Law [School](#) Admissions Test instructor told me the correct answer on the exam is always the one that requires more government regulation. Of course, the test is written by and for lawyers.

As government regulation continues to grow it seems more and more silly things become "illegal." Just as every little quirk like restless legs in bed is now considered a "disease" then not buying health [insurance](#) will soon become a crime and punishable by a fine with possible imprisonment enforced at the point of a policeman's gun. In the "land of the free" we are only free to do what the regulatory authorities permit for us, and that freedom becomes less every day.

Gene Healy, a J.D. from the University of Chicago Law School, member of the Virginia and District of Columbia bar associations and senior editor for the Cato Institute says "at one time, the sanction of the criminal law was reserved for serious, morally culpable offenders. But during the past 40 years, an unholy alliance of tough- on-crime conservatives and anti-big-business liberals has utterly transformed the criminal law. Today, while violent crime often goes unpunished, Congress continues to add new, trivial offenses to the federal criminal code.

With more than 4,000 federal offenses on the statute books, and thousands more buried in the Code of Federal Regulations, it is now frighteningly easy for American citizens to be hauled off to jail for actions that no reasonable person would regard as crimes. At the same time, rampant federalization and mandatory minimum sentencing are making America's criminal justice system ever more centralized and punitive. The result is a labyrinthine criminal code, a burgeoning prison population, and often real injustice." (From the preface of "Go Directly to Jail: The Criminalization of Almost Everything" published by the Cato Institute, Nov.25, 2004, ISBN-10: 1930865635).

Out of the very few originally codified laws, those for taxes and Presidential "war powers" were designed to temporarily [fund](#) and protect our citizens from foreign military invasions. Taxation has now been broadened to fund socialistic entitlement programs that subliminally buy perpetual votes for politicians that keep a vast amount of the population "on the take".

Presidential "war powers" are now used to implement our military in areas around the globe without congressional approval. For example, the USA has just deployed 46 warships, 200 helicopters and 7,000 Marines to the peaceful country of Costa Rica. It was not that long ago when a similar "war powers" directive by Hitler suspended Germany's constitutional [government](#) and resulted in the atrocities of World War II.

Governmental regulatory infringements are perhaps most evident through their daily interference in the conduct of business. I recall for example when it was perfectly legitimate to close a real estate deal without an attorney. After graduating from Wofford in 1982 (on a full academic scholarship thanks to Clover High School), I was the in-house homeowner's [insurance](#) agent for a "one stop shop" real estate firm at Hilton Head. We

provided seamless transactions from mortgage origination to vacation rentals at considerable savings to the consumer. The local bar association members were so incensed at being "cut out of the deal" that they convinced the Attorney General's Office to conduct an investigation into our activities. Although they found nothing improper, just the negative publicity forced us to split up the entire organization.

Another example of government over-regulation of legitimate enterprise with which I am familiar is in the investment securities industry. It is now almost cost prohibitive for small business to raise needed capital through the simple sale of corporate stocks and bonds. Under the Federal Securities Act of 1933, "Regulation D" provided for an exemption from registration with the SEC for an unlimited number of "accredited investors" and up to 35 others. The new 1,408 page "Restoring American Financial Stability Act" will change the definition of an "accredited investor" to individuals with at least \$400,000 per year in annual income or \$2,000,000 in net worth. This would considerably limit the pool of prospects for a "non-public" securities offering.

A few years ago I decided to drop my series 6, 7, 24 and 63 general securities principal designations because they forced me to "sell" only financial products that were approved by my sponsoring broker/dealer firm. Consequentially, I became a series 65 exam fee-based independent Registered Investment Advisor. Per the 10th Amendment I primarily now only answer to single state regulatory authorities for compliance purposes. This has afforded me the ability to help with successfully filing various securities offerings in South Carolina for small business ventures to raise capital without the expensive legal and other costs involved with a full-blown SEC offering.

I can understand the desire to prevent fraud through rules and regulations.

However my experience has been that the bad folks in business could not care any less about the law and the result is that the good folks get saddled with the compliance requirements. The bottom line is that the final expense of all the excessive regulation is unfortunately funneled down to the consumer. As a result of this fact, I endorse going back to more of a "caveat emptor" personal due diligence responsibility concept of doing business instead of the increasing prevalent practice of presumably valuable but inefficient governmental paternalism.

Our government has become quite a "fear-factor" based authority not unlike what caused the Revolution against the King of England and what precipitated the Declaration of Independence in 1776. Information is now collected and hoarded without respect for privacy rights. Fear has started to crush any desire of creativity, trust, alternative views or mutual enlightenment while our "leaders" continue to make secretive decisions that affect everyone.

In closing, I must ask why "the people" should now and in the future be afraid of a government designed to be "of the people, for the people, and by the people?" My intuitive answer is we are suffering from a paradigm shift whereby the government is "of the politicians, for the politicians and by the politicians" that desire to regulate your actions and thoughts to their benefit similar to the nightmarish control delineated in the Orwellian fiction novel.

We can pray for a "second coming" of Jesus to rearrange the status quo. However we seem to live in a culture that prefers the complicit method of waiting on some beneficially omnipotent "higher power" to "save the day." I suggest we make Jesus proud before he gets back and return the government to "the people" in the interim.

