

Candidates Should Have a Contract with the Constitution

(Richard W. Rahn/Cato Institute) – Most of the current problems facing America stem directly from the failure of our elected representatives to follow the Constitution.

Much of what the Tea Party activists are demanding, often without explicitly saying so, is a return to the principles and procedures found in the Constitution. Many of those running for office are venting about excessive spending, deficits, taxation, regulation and so forth, but are struggling to say what they are for and what they would actually work to accomplish once they are elected.

To deal with this problem, candidates for office should state that, if elected, they will have a “Contract with the Constitution,” much like the Contract with America that Newt Gingrich and Dick Armey developed for the Republicans in 1994.

Congress is spending hundreds of billions of dollars on programs and agencies for which there is no constitutional authority. The Constitution is clear about what things the government can and cannot spend money on. For instance, it explicitly states that Congress may fund a “militia,” army, navy, post offices and roads, but there is no provision for massive transfer payments (note: the individual states may have such powers under the 10th Amendment).

In part to get at this problem, Rep. John Shadegg, Arizona Republican, has introduced the Enumerated Powers Act, which “requires that all bills introduced in the U.S. Congress include a statement setting forth the specific constitutional authority under which the law is being created.” Most people can readily understand what this means, and the more thoughtful citizens will support it. This proposed act should be part of a candidate’s “Contract with the Constitution.”

The 16th Amendment gave Congress the power to “tax incomes.” It turns out that this was a very bad idea, but it is the law of the land. However, the IRS has stretched the definition of income to include “imaginary income.” For instance, the IRS taxes the portion of a capital gain that is solely a result of inflation (which actually is caused by the government). When goods and services rise in price solely as a result of inflation, one’s purchasing power is not increased, and hence there has been no “income” — in either the common or economic sense of the word.

There are provisions in the corporate tax code that also result in taxation of imaginary income (inadequate depreciation allowances, etc.). The new health care bill will tax people — as they will find out next year — on health insurance they neither own, control or may not want, with the claim that it is income. Taxing people on imaginary income is nothing more than fraud; and if a private party tried to do a similar thing, he or she would probably be sent to prison for good reason. Given that there is no provision in the Constitution that allows the government to tax imaginary income, candidates would be on

solid ground with their constituents if they promised not to vote for any Treasury/IRS appropriation bills that did so.

The IRS also oversteps the Constitution by requiring people to incriminate themselves and to prove their innocence, rather than the IRS having to prove them guilty, and by engaging in unreasonable search and seizure. Judges have often refused to rein in this unconstitutional behavior, perhaps because they have a conflict of interest, as they are dependent upon Congress for their salaries and dependent on the IRS to collect the taxes to pay them, whether by fair or foul.

The Constitution was designed to protect the people from the state. Thomas Jefferson wrote, “When governments fear the people, there is liberty. When the people fear the government, there is tyranny.” After 230 years of Congress piling on one law after another and the regulatory agencies producing thousands of new regulations each year, all Americans are subject to laws and regulations they cannot possibly know about or understand. Many of these laws and regulations defy common sense, and as a result, Americans increasingly fear their government.

The answer is to require each new law and regulation be enacted for a defined period, such as 20 years, but be subject to renewal by an explicit act of Congress. All existing laws and regulations should also be subject to a “sunset” after a reasonable number of years, again subject to explicit renewal by the Congress.

Such a provision would stop the endless piling on of laws and regulations that eat away at the people’s liberties, and again make the Constitution a protector of citizens’ liberties, rather than an instrument of state oppression.

Finally, under the First Amendment, the people have the right to “petition the government for a redress of grievances.” In the modern world, that may mean sending an e-mail to elected representatives — yet many members of Congress refuse to divulge their e-mail addresses (or even that of staff members). A candidate who promises to fulfill the constitutional mandate by publishing his or her e-mail address would gain points against those officeholders who refuse to do so.

Most Americans respect their Constitution and thus are more likely to vote for a candidate who seriously promises to fulfill its requirements than for all of those who do not.

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