



BY PETER GOETTLER

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PRESIDENT'S MESSAGE

When Bureaucrats Make the Laws

Many of us share the quaint notion that Congress makes the laws. But today, it often delegates legislating to the executive branch in the form of rulemaking. Then . . . BAM! More burdensome regulations.

Rules and regulations created directly by Congress can be bad enough. The Cato intern program greatly benefits our outstanding young interns and the Institute alike. But the winter and fall class terms, which used to run weeks longer, are now capped at three months to avoid having to provide health insurance that would otherwise be required under Obamacare. We simply can't afford it. Who benefits from this?

The delegation of regulations to the executive branch seems to reach new heights as the years roll by. (The Dodd-Frank financial “reform” mandated over 400 different rulemakings—still unfinished after six years!) But it's an abomination that's been with us a long time. So like long-dead enemies reaching across the years and beyond the grave, ancient laws can still wreak havoc. Like the Fair Labor Standards Act, amended several times but originally passed in 1938. It took only a pen—no phone needed—for the president and the labor secretary to announce back in May significant changes in the rules governing overtime pay throughout the economy. The rule increased the salary level at which employees become exempt from overtime pay requirements from \$23,660 set in 2004 to \$47,476.

Many of you are grappling with these new standards in your businesses; and here at Cato, we are, too. Like most labor regulations, these rules interfere with the private relationship between employers and employees in ways that are difficult to predict and can harm both sides of the relationship. It means for employees below the new threshold, either their hours worked need to be capped where overtime pay kicks in or they'll have to be paid more—which can be difficult for any business or non-profit to bear. I recall my first job, which now would have fallen below the threshold. Being willing to toil for long days allowed me to prove my work ethic; to spend many hours acquiring knowledge, skills, and expertise; and to gain the sense of accomplishment and achievement that came from doing whatever it took to successfully complete a time-sensitive project. Many successful people would never have advanced in their careers if their company had to tell them to go home at 5 o'clock. Worse yet, one of the ways many employers deal with these increased labor costs is by eliminating employees through outsourcing, outside contracting, or automation.

The overactive administrative state has (at least) three terrible consequences. First, the Constitution states that “all legislative powers herein granted shall be vested in a Congress.” It doesn't say, “all legislative powers except those Congress delegates to the president or the faceless bureaucrats of the sprawling administrative agencies.” Our ability to keep government limited, as the founders intended, depends in part on the ingenious separation of powers they devised, as well as recourse to the electoral process when government places burdens on us. The modern administrative state short-circuits both of those important checks.

Second, the regulatory burden has grown out of control. The United States is in the midst of its 11th year of sub-3 percent growth, by far the longest such period of our lives. A regulatory burden that's at an all-time high plays more than a small part in my opinion. The cost of a slow-growing economy falls hardest on the less fortunate, reducing economic opportunity and the upward mobility that's such an important part of the American dream. It also creates anxiety that can be unhealthy for society and counterproductive to the policy debates. Witness, for example, the attack on free trade. There are many important policy failures that are contributing to our weak economy, but I wouldn't count our system of trade—which could be a lot freer—among them.

And a third, tragic consequence of these burdens is the impact they'll have on the young. We meet many entrepreneurs who tell us they'd never be able accomplish today what they did 20 or 30 years ago: building a great enterprise from scratch. To me, this means we're denying the young people of both today and tomorrow the ability to employ their creative energies and vision to reach their dreams. We're also denying everyone the chance to benefit from the great innovations such dreams produce.

Policy failures that deny opportunity to the least fortunate, to today's young, and to future generations emphasize the moral dimension of our work. People cannot live their best lives and flourish unless they are free, and it's simply immoral for them to be denied the opportunity to do so. When we view Cato's mission—and particularly our ongoing battles against regulation—in these terms, it fuels our passion and motivation. As the end of the year approaches and we benefit from the generosity of so many of you, I can't thank our Sponsors enough for making this mission possible.