
Notable & Quotable: Regulatory Bill of Rights

Jonathan Wood and Elizabeth Slattery of the Pacific Legal Foundation writing for the Journal's website, May 26:

One of the first actions of Congress in 1789 was proposing a bill of rights that limited government power and guaranteed the liberties of the American people. Power has since shifted from Congress to an unaccountable regulatory state. . . .

President Trump last week issued an executive order, "Regulatory Relief to Support Economic Recovery." Its temporary relief provisions have attracted much attention, and deservedly so, but an important part has been overlooked. The executive order includes a regulatory bill of rights that identifies "principles of fairness

in administrative enforcement and adjudication" and commands agencies to revise their procedures accordingly.

Here are some of the principles: You should be presumed innocent unless proven guilty of violating a regulation. Agency enforcement should be prompt and fair, not needlessly drawn out. Disputes should be decided by neutral judges, not agency enforcement officials. Agency rules of evidence should be clear and fair, and agencies shouldn't withhold evidence that is potentially exculpatory. Threatened penalties should be proportionate to the alleged wrong. Agencies shouldn't coerce you into giving up your rights. Agencies shouldn't engage in practices that cause unfair surprise. And agency

practice should promote, rather than evade, accountability.

These principles may seem basic, but federal agencies have too often failed to uphold them. . . . The problem isn't that agents occasionally cross lines in pursuit of clear villains. Bureaucrats have stacked the process against ordinary people even in mundane cases. . . .

The First Congress included in the Bill of Rights a guarantee that no one would be deprived of life, liberty, or property "without due process of law." The protections inherent in this clause are vital to shielding Americans from arbitrary or abusive government action. The Regulatory Bill of Rights promises the same protections against the regulatory state, protections that are long overdue.
