



HOUSE OF DELEGATES WEST VIRGINIA LEGISLATURE

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Committees:

Veterans Affairs and
Homeland Security, Chair
Banking and Insurance
Judiciary

April 30, 2020

Honorable Roger Hanshaw
Speaker of the House
West Virginia Capitol
Charleston, WV 25305

Dear Speaker Hanshaw,

This is an age of adversity. For many of us, the ongoing pandemic has been more than a challenge, bringing about serious hardship for the people of our country and the residents of our state. Without question, this terrible experience has continued in sometimes surreal ways, as so many innocents have suffered awful tragedy and misfortune. Beyond the pandemic itself though—and quite distinct from it—are the overzealous actions taken by our own state government in response, some of which have given cause for grave concern.

Under dire emergencies, certain powers are admitted for the Executive which are presumed to be granted from the rare ontological status of an existential danger. However, it is only right and proper for a self-governing people to question the source and limits of these powers, which by their natural sovereignty, must necessarily be few and defined.

By such definition, emergency powers can never be long-lasting. Moreover, within a constitutional order, they can never be left unrestrained. The implication of allowing otherwise does not simply subject our citizens to vague and arbitrary power in the present, but would submit future generations to a growth in absolutism that the kings and monarchs of old seldom possessed. As the Executive continues to extend the legal duration of the emergency by fiat and decree, the former becomes ever more apparent while deep-seated precedent is profoundly conditioned for the latter. Going forward, the legislative branch must no longer sit idly by for an emergency perpetually held by the Chief Executive.

First, Constitutional questions must be addressed, especially with the potential infringement against the First Amendment's protection of peaceful assembly and the exercise of religious worship. But more broadly, the Governor's executive orders *in totale* are acutely problematic, as they are difficult, if not impossible, to coherently reconcile with the core maxims that stand behind the First and Fourteenth Amendments. Still on another fundamental level, the prolonged

and systematic violation of private property rights *en masse* should not be condoned without epistemic justification—and thus far, only tacit appeals to poorly subjective utilitarian ethics have been attempted after the fact.

What's more, an erroneous belief that only two options are available to combat the pandemic has presented a false dilemma: Either establish a *de facto* command-and-control economy or an oblivious and uninformed state will result—one that is carelessly committed to taking zero precautions. On the face of it, this logical fallacy appears to have played a part in persistently misguided policy.

Ultimately though, one recurring lesson of history should be heeded, which can not be discounted with noble intentions or by the irrational effects of fear: Empowering the Executive branch—with its myriad of modern technocrats—to impose central solutions across society will often result in the creation of far more difficulties and troubles, many of which will tend to be more harmful than the original problem. A novel disease does not require novel government powers, for insisting the opposite, even upon popular demand, implicitly denies another history lesson: Free innovative societies are better equipped to confront social ills than their authoritarian counterparts. In the short term, the role of a sovereign people charting their own course must be remembered, while in the long run, the right lessons must be taken to heart from this most unfortunate episode.


It is hoped that an appropriate balance of power is soon restored and that these excesses by the Executive will be checked—making clear that the Legislature is the exclusive branch of government vested with the power to make law. This charge must be fervently guarded, for a pointed sketch was once drawn by Saint Augustine that illustrates the arrested loss of first principle: “Without justice, what else is the government but a great band of robbers.” To avoid this decay, let us instead strive toward a different end by recalling the ideal our American ancestors handed down: “A government of laws and not of men.”

Sincerely,

Pat McGeehan
Delegate, 1st District


Pat McGeehan (Apr 30, 2020)

Mark Dean
Delegate, 21st District


Mark Dean (Apr 30, 2020)

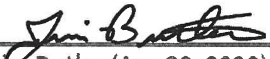
Chris Phillips
Delegate, 47th District



S. Marshall Wilson
Delegate, 60th District


S. Marshall Wilson (Apr 30, 2020)

Jim Butler
Delegate, 14th District


Jim Butler (Apr 30, 2020)

Larry Kump
Delegate, 59th District

Larry D. Kump, District #59 (Berkeley-Morgan counties)
Larry D. Kump, District #59 (Berkeley-Morgan counties) (May 1, 2020)

Scott Cadle
Delegate, 13th District


Scott Cadle (May 1, 2020)

cc: The Honorable Jim Justice, Governor of West Virginia