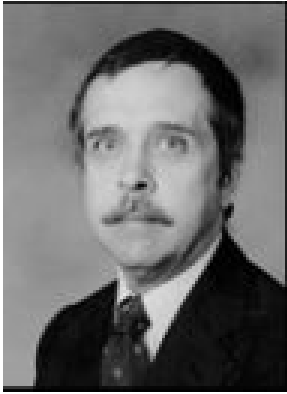


“Covid 19” and Three Discontinuities of Government

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As perusal of the Internet reveals, the most accurate characterization of this country's response to the "covid-19" crisis is that America has become beset by confusion, controversy, contradictions, conflicting "narratives", disputations as to the "facts", unreliable predictions by self-styled "experts", irresponsible reportage in the big mainstream media, shrill partisan-political invective and recriminations, a cascade of "conspiracy theories" (admittedly, some more truth than theory), and (worst of all) the institution of draconian executive decrees ostensibly aimed at fighting the virus by depriving ordinary Americans of their liberties, their property, and surely in some cases even their lives, with little if any semblance of "due process of law".

If sanity ever returns to this rats' nest of hysteria, it will surely be discovered that many people have died, wide swaths of the economy have been deranged or even destroyed, the Constitution has been assaulted, and the intelligence of ordinary Americans has been insulted—all more or less *needlessly*, because of negligent, improvident, and ill-advised actions and reactions by an interlocking directorate of public-health officials, political leaders, the mainstream media, and various special interests.

This spectacle should shatter once and for all ordinary Americans' confidence in the competence, beneficent motives, and good faith not only of this country's public-health establishment but also of the reigning political class *in their entirety*. One can anticipate, however, that public officials will exaggerate their accomplishments, minimize their mistakes, cover up their blunders, and shift to others the blame for whatever failures cannot be hidden. And still, *many* questions will remain to be answered, if officialdom ever condescends, or can somehow be compelled, to address them. See, e.g.,

<https://www.paulcraigroberts.org/2020/04/21/what-if/>.

This combination of tragedy and travesty has amply demonstrated that—if not for today (because it is probably too late) then certainly for tomorrow (before it becomes too late)—Americans need to put into practice measures not only long overdue but also demanded by both the Constitution and their own interests in self-preservation as citizens of an independent, free, and prosperous Republic. To do this, they must first analyze the problem confronting them. The approach adopted in this commentary consists of five points:.

Part One. The “covid-19” panic has exposed a basic discontinuity of government in the effective disestablishment of “the Militia of the several States”.

Part Two. A discontinuity of government through a military take-over has been threatened because of the “covid-19” crisis.

Part Three. The “covid-19” panic has rationalized a discontinuity of government through the seizure of supreme power by public-health “technocrats” in league with rogue public officials.

Part Four.. In large measure, the blame for these three discontinuities of government can be laid at the feet of

the proponents of “the individual right to keep and bear arms”.

Part Five. Americans should reimpose true continuity of government by revitalizing “the Militia of the several States”.

Part One

The “covid-19” panic has exposed a basic discontinuity of government in the effective disestablishment of “the Militia of the several States”. Analysis must begin with a detailed explanation of this discontinuity, because it provides the underpinning necessary for understanding the other two discontinuities of government related to “covid-19”.

Undeniable is that, with vanishingly few exceptions, Americans do not recognize that the present nationwide is not the result merely of the wrong *individuals*, or even the wrong *types* of people being ensconced in the highest positions of National and State leadership. Rather, a major component of the federal system—in times such as these the *most important* component—is not functioning as the Constitution requires that it should. For this reason, there exists a long-standing, severe, and (if not soon remedied) fatal discontinuity in government. This is not a failure of the Constitution, in the sense that the Constitution provides no means to rectify the situation. Rather, it is the result of the stubborn, stupid, and even subversive refusal of public officials over many decades to apply the Constitution as it can, should, and must be applied—and, of greater consequence, a failure of We the People to *demand* as much.

In 1787, Benjamin Franklin warned both his contemporaries and all future generations that in and through the Constitution the Founding Fathers had established “a Republic, *if you can keep it*”. Today, Americans on the verge of losing it. The underlying causes of this looming political disaster are a

lack of understanding of what “a Republic” is, and an unwillingness to bear the burdens of “keep[ing] it”, among the citizenry.

The “Republican Form of Government” which Article IV, Section 4 of the Constitution commands “the United States [to] guarantee to every State in th[e] Union” is one in which We the People, not public officials, are the sovereigns. In the first and the final analysis, at every level in the federal system We the People are “the government”—because they are the source of “government” in the first instance, and its most important component and means of support ever after. We the People created “the government”; “the government” did not create the People. “The government” exists for the People; the People do not exist for “the government”. Any “government” may become expendable; the People are never expendable. As long as the People maintain control of “the government” through constitutional means, the continuity of government continues; but once they lose control it ends, whether *pro tanto* or altogether, depending on circumstances. And as long as the People act according the principles of the Declaration, they may alter or abolish an old continuity of government, or create an entirely new one, “as to them shall seem most likely to effect their Safety and Happiness”—and public officials in the then-existing governmental apparatus will have nothing to say about it.

To maintain *their* control of *their* government, however, We the People must participate *directly* in its operations. Self-evidently, *direct* participation cannot be left to mere “representatives” who may prove incompetent or even disloyal, and whose “representation” may do the People a disservice or even may betray them to their enemies, foreign or domestic. Wisely, through “the Militia of the several States” the Founders secured the People’s direct participation in government at every level of the federal system. See U.S. Const. art. I, § 8, cls. 15 and 16; art. II, § 2, cl. 1; and

amend. II. Those who are interested in explanations of these matters more detailed than can be presented in this commentary should consult the present author's book *The Sword and Sovereignty: The Constitutional Principles of "the Militia of the Several States"* (Front Royal, Virginia: CD-ROM Edition, 2012).

Sufficient to observe here is that the power, authority, and responsibility of the Militia "to execute the Laws of the Union" in Article I, Section 8, Clause 15 of the Constitution is self-evidently a *governmental* power—indeed, "governing" in its most basic form for its most basic purpose. We the People's exertion of this governmental power is *direct*, because the Militia are composed of the body of the People in each State. And the exercise of this governmental power is *continuous*, because "the Laws of the Union" are not to be set aside except through the enactment of statutes consistent with the Constitution or the adoption of constitutional Amendments consistent with the Declaration of Independence—which statutes and Amendments are themselves "Laws" the Militia are empowered "to execute". (The same conclusions apply when the Militia are executing the laws of the several States.) Thus, *the Militia are the only establishments constitutionally authorized and responsible for permanently securing the true continuity of government*. For they are the only governmental institutions in which We the People themselves participate directly, continuously, and effectively with complete governmental authority. They are composed of Local citizens. They are the States' own institutions ("the Militia of the several States"). See U.S. Const. art. II, § 2, cl. 1 (emphasis supplied). And they are empowered by "the supreme Law of the Land" "to execute the Laws of the Union". See U.S. Const. art. VI, cl. 2; and art. I, § 8, cl. 15. This, obviously, is the essence of—in the first place the only way to establish—and in the final analysis the only way to preserve—popular self-government in a federal system.

The *constitutional* continuity of government requires that “a Republican Form of Government” be maintained in every State (and, by extension, for the United States, too). For that reason, one of “the Laws of the Union” which the Militia are authorized “to execute” is Article IV, Section 4 of the Constitution. This, of course, makes perfect sense, because in “a Republican Form of Government” We the People are sovereign, and the Militia are the means through which the People can maintain their sovereignty by their own efforts. It also ties in perfectly with the Second Amendment. For “a Republican Form” is the form of government characteristic of “a free State”. “[T]o the security of a free State” “[a] well regulated Militia” is “necessary”. So (of course) “[a] well regulated Militia” is necessary to maintain “a Republican Form of Government” in every State, and in the United States as a whole. And, not surprisingly, the Constitution empowers “the Militia of the several States” to perform that vital task by “execut[ing] the Law[] of the Union” which provides for “guarantee[ing] a Republican Form of Government to every State in th[e] Union”.

Moreover, for the Militia to provide “the security of a free State” and to “guarantee” “a Republican Form of Government” throughout this country involves more than “keep[ing] and bear[ing] Arms” (although under many circumstances that may prove to be of signal importance).

After all, “a Republican Form of Government” is to be “guarantee[d]” *with no limitation on the otherwise constitutional methods which may be employed for that purpose*. “A well regulated Militia” is “necessary to the security of a free State”—and therefore to the preservation of “a Republican Form of Government”—*with no limitation on the type of “security” which may be involved*. And the Militia are “to execute the Laws of the Union” in order to effectuate that guarantee and achieve that security *with no limitation as to which “Laws” they are “to execute” or as to the otherwise*

constitutional means by which they may "execute" them. Thus, every "Law[] of the United States" (and every law of the States as well) which has any application to "the security of a free State" and the preservation of "a Republican Form of Government"—and what constitutional laws do not?—is within the jurisdiction of the Militia.

The subjects of these "Laws" include *inter alia* military, para-military, and police forces; fire, rescue, and kindred emergency services; social-welfare functions of all types; monetary and banking systems (to secure an economically and politically sound currency); the conduct of *honest* elections; public education (to focus students' attention on *constitutional* studies, rather than cultural Marxist indoctrination); supervision of public officials (to ensure that they are performing their duties in a timely, loyal, and effective manner); and, most relevant to the "covid-19" panic, oversight of all public-health institutions, personnel, and operations.

Unfortunately, today We the People do not maintain their rightful ascendancy over the continuity of government, because they no longer participate in "the Militia of the several States" as the Constitution requires. Why is this? Already in 1833, Justice Joseph Story predicted the basic problem: namely, that "though * * * the importance of a well-regulated militia would seem so undeniable, it cannot be disguised that, among the American people, there is a growing indifference to any system of militia discipline, and a strong disposition, from a sense of its burdens, to be rid of all regulations. * * * There is certainly no small danger that indifference may lead to disgust, and disgust to contempt; and thus gradually undermine all the protection intended by this clause of our national bill of rights." *Commentaries on the Constitution of the United States* (Boston, Massachusetts: Little, Brown, and Company, Fifth Edition, 1891), Volume II, § 1897, at 646 (footnote omitted).

From Story's time, decades' upon decades' worth of historical ignorance, political incompetence, and general stupidity concerning (as well as outright subversion of) the Constitution on the part of public officials at all levels of the federal system—and, worse yet, We the People's unconscionable reluctance to fulfill their own constitutional duties—have resulted in most Americans' being consigned, as matters of statute, to the so-called “unorganized militia”. At the National level see 10 U.S.C. § 246; and as an example of State laws, see Code of Virginia § 44-1. Amazingly, Americans in general are totally unaware of this situation, and therefore oblivious to its malign significance—and, if they knew, all too many would not care to take the steps necessary to rectify it.

Against this background the other two discontinuities of government specifically related to the “covid-19” panic stand out clearly.

Part Two

A discontinuity of government through a military take-over has been threatened because of the “covid-19” crisis.

As Part Three of this commentary will explain, the “covid-19” panic has enabled rogue public officials to impose a “technocratic” tyranny throughout the United States. The practical question is how such a tyranny could be enforced in the face of the widespread popular reaction and resistance which will arise when enough people finally stop swallowing the disinformation rogue public officials put out and the mainstream media amplify. That is, when disbelief begets distrust, distrust begets disgust, and disgust gives birth to disobedience *on such a massive scale that public officials cannot control the situation with the ordinary means at their disposal.*

No one should entertain any doubt that the Powers That Be have

designed and are ready to put into practice draconian measures to deal with such an eventuality—measures with a distinctly *military* cast to them. As part of a self-fulfilling prophecy, Americans are being told that the Armed Forces are ready to and will supply the necessary continuity of government in the course of the present panic, and presumably during any other “emergency”—real, imaginary, or even staged—which arises in the future and cripples the operations of the governmental apparatus in the District of Columbia. See, e.g.,

- ◆ Newsweek.com
- ◆ Dailymail.co.uk
- ◆ Newsweek.com

Even without positing some “conspiracy theory”, a situation which might provoke a military take-over in order ostensibly to maintain a semblance of continuity of government is not too difficult to imagine. For example, if the sort of ill-advised and ham-handed measures which have been employed so far to “fight” “covid-19” were to continue in effect for too long, and if as a consequence the national economy were to collapse into chaos with attendant social upheavals breaking out on a massive scale, and if the National and State governments were to prove too indecisive, inept, impotent, and imbecilic to restore order (a not unlikely prospect), then the Armed Forces might be compelled to step in simply as a matter of self-preservation in order to secure the continued functioning of the military-industrial complex on which they depend.

More troubling yet, the sufficiency of the present “covid-19” (or any equivalent future) “emergency” to trigger a military take-over will presumably be decided by someone in the Armed Forces, no matter what some statute or regulation may say. For, by hypothesis, that decision will be made when and because the normal continuity of government will have so far broken down that whatever disjointed remnants of the government will still be functioning at all will be incapable of running the country. At that point, only the Armed Forces

will retain the competence necessary to take on that task—supposedly because some unique innate superiority which military establishments enjoy over civilian institutions will guarantee that *their* “continuity of command” will *not* have been disrupted. For the same reason, the Armed Forces will also determine when and how, if at all, the normal continuity of government will be restored to civilian hands. Thus it is hardly difficult to foresee how, in a era of recurrent pandemics or other “emergencies” (real or otherwise), the Armed Forces could first assume a supporting, then a leading, then a controlling, then a dominating, and finally a permanently dictatorial rôle (whether in plain sight or behind the scenes).

In no way, though, could a transition—howsoever effected under color of any “emergency” whatsoever—from present-day civilian government to some form of military directorate maintain or even mimic continuity with the government of the United States or the governments of any of the several States established under the authority of the Declaration of Independence and the Constitution. Under those documents, the Armed Forces can claim perforce of innate right, or can be delegated by civilian officials, no license whatsoever even temporarily to assume the powers of, to substitute for, or to replace—let alone indefinitely to displace and supplant—any constitutional government within this country’s federal system. In the face of both the Declaration of Independence and the Constitution, the accession to power of some military *junta* would constitute a *discontinuity* of government as utterly unjustifiable in law as it would be unprecedented in history. See, in general, the present author’s *By Tyranny Out of Necessity: The Bastardy of “Martial Law”* (Ashland, Ohio: Bookmasters, Inc., 2014, 2016).

The Declaration of Independence sets out the moral, legal, and political principles upon which the independence and governmental authority of the original Thirteen States—and, by logical and legal extension, the independence and governmental

authority of all of the other States which followed them into the present-day Union, and of the United States as a whole—depended in the past, depend in the present, and will always depend in the future. From the beginning, the States' and then the United States' powers as independent governments were circumscribed, confined, and controlled by those principles, the legitimacy of their exercise always contingent upon the States' and the United States' adherence to them in both word and deed.

As "Governments instituted among Men", the States and the United States "deriv[ed] * * * from the consent of the governed" "their just powers"—and *only* such powers as indeed were "just" because they conformed to the principles of the Declaration. For only such powers are "the governed" capable of delegating to a government conformably to "the Laws of Nature and of Nature's God".

The Declaration indicted King George III as "unfit to be the ruler of a free people" because (among his other derelictions) "He has affected to render the Military independent of and superior to the Civil power". Such an imposition of "martial law" was not the result of an out-and-out military take-over through a *coup*, *Putsch*, or *golpe*. Rather, the King and his Ministers—the ultimate *civilian* authorities in the British Empire—purported to authorize it in America precisely in order to maintain the continuity of government in the face of a rebellion by the Colonists which civil magistrates loyal to the Monarchy could not suppress. Nonetheless, that the Declaration lambasted the King's imposition of "martial law" as one of the "repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny" over the Colonists establishes that a power to impose "martial law" "independent of and superior to the Civil Power" is not a "just power" which *any* government can "deriv[e] * * * from the consent of the governed" in conformity with "the Laws of Nature and of Nature's God". *A fortiori*, it is not a "just

power” for “the Military” to exercise on its own recognizance. Moreover, the Declaration recognized no possible “emergency power” through the exercise of which the King and his Ministers, let alone the British armed forces, could have fastened military rule on the Colonists. Indeed, by implication it denied the possibility that *any* “emergency” which could rationalize the exercise of such a power could ever arise in a free country.

Under the Declaration, control over the *true* continuity of government always remains in the hands of “*the People themselves*,” not of public officials and least of all of “the Military”. Ultimately, “*the People themselves*—not public officials or members of “the Military”—decide when the proper continuity of government exists, when it has broken down, and when and how it must be restored or reconstructed anew. As the Declaration makes plain, “whenever any Form of Government becomes destructive of the[] ends [for which it was instituted], it is the Right of *the People* to alter or to abolish it, and to institute new Government, laying its foundations on such principles and organizing its powers in such form, as to *them* shall seem most likely to effect *their* Safety and Happiness”. And “when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce *the[People]* under absolute Despotism, it is *their* right, it is *their* duty, to throw off such Government, and to provide new Guards for *their* future security”. (Emphases supplied).

After 1776, the American people could not create, and the States could not join, a National government with purported powers beyond the “just powers” which “the People” could delegate under the auspices of the Declaration of Independence. So, as the Preamble to the Constitution states, We the People “ordain[ed] and establish[ed] th[e] Constitution” “in Order to * * * establish Justice”—which, self-evidently, the government of the United States can

accomplish only by exercising "*just powers*" in a *just* manner for *just* purposes. So, under the Constitution as well as the Declaration of Independence, *true* continuity of government excludes "render[ing] the Military independent of and superior to the Civil power". Indeed, the Constitution provides explicitly for such exclusion with respect to the primary civilian officeholders whom a military take-over would supplant: namely, the President and Members of Congress.

As to the continuity of government with respect to the President, Article II, Section 1, Clause 5 of the Constitution provides that "the Congress may by Law provide for the Case of * * * Death, * * * or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected." Under this clause, "what Officer" arguably could be some military commander—but, having been so selected, that person "shall act accordingly [*as President*]", *not as a military officer*.

Section 3 of the Twentieth Amendment to the Constitution provides that: "[i]f, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified." Here, too, "who shall then act as President" arguably could be some military commander—but, having been so designated, that person "such person shall act accordingly [*as President*]", *not as a military*

officer.

The Twenty-fifth Amendment to the Constitution provides:

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Sec. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Sec. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representative their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the

Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon, Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Here the Constitution specifies under what circumstances *the Vice President* shall assume, temporarily or permanently, the powers and duties of the President—lending no credence to the notion that some military commander, *as such*, could take over “the powers and duties of [the President’s] office”, inasmuch as no military commander, *as such*, could at that time be the Vice President.

Moreover, the notion that some military commander, *as such*, could assume those powers and duties makes no sense. After all, pursuant to Article II, Section 2, Clause 1 of the Constitution, “[t]he President shall be Commander in Chief of the Army and Navy of the United States”. Thus, once some military commander were elevated to the office of President (presumably under the aegis of the laws quoted above), he would hold a *constitutional* rank above *everyone* in the Armed Forces. His former rank in the Armed Forces would be irrelevant and no longer effective. Any order he promulgated *as President* would derive its legitimacy from his status as “Commander in Chief”, not from his former rank (whatever it was) in the Armed Forces.

As to the continuity of government with respect to Congress, Article I, Section 1, Clause 4 of the Constitution provides

that “[w]hen vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.” And the Seventeenth Amendment to the Constitution provides that “[w]hen vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.” Nothing in these provisions suggests that military commanders, *as such*, can be the beneficiaries of “Writs of Election”, or that such persons so appointed as temporary Representatives or Senators can then exercise specifically *military* authority within or over Congress.

Plainly, then, no part of the Constitution which explicitly deals with the continuity of government even hints that some military commander, *as such*, could assume the office and powers of the President or Vice President, or that some gaggle of military commanders, *as such*, could infiltrate the House of Representatives, the Senate, or both, with the result that “the Military [becomes] independent of and superior to the Civil power”.

The Constitution delegates to Congress no explicit power to set up some sort of military rule (“martial law”) over society in general in the guise of maintaining the continuity of government. To be sure, with the approbation of Congress pursuant to Article I, Section 8, Clause 14 of the Constitution the Armed Forces may enforce some *just* form of “martial law” *on their own members*. But neither on their own initiatives nor under color of some purported license from the civil government may the Armed Forces impose *any* form of “martial law” *on ordinary citizens*, even in supposed response to some purported “emergency”. See the present author’s *By Tyranny Out of Necessity: The Bastardy of “Martial Law”*

(Ashland, Ohio: Bookmasters, Inc., 2014, 2016). Indeed, the Constitution is so concerned with forefending the possibility that a rogue army with praetorian pretensions might try to set itself up as “independent of and superior to the Civil Power” that the power “[t]o raise and support Armies” which it delegates to Congress in Article I, Section 8, Clause 12 includes the prohibition that “no Appropriation of Money to that Use shall be for a longer Term than two Years”—thus enabling each new House of Representatives to disestablish then-existing “Armies” entirely by abolishing their funding. See also U.S. Const. art. I, § 2, and § 9, cl. 7.

The only governmental institutions with “martial” characteristics to which the Constitution assigns any law-enforcement authority and responsibility are “the Militia of the several States”, in the power it delegates to Congress in Article I, Section 8, Clauses 15 and 16 “[t]o provide for calling forth the Militia to execute the Laws of the Union” when some “Part of them * * * may be employed in the Service of the United States”. In stark contrast, the Constitution delegates *no* power to Congress “[t]o provide for calling forth [the Armed Forces, whether in whole or in any part] to execute the Laws of the Union”, or to license any civil officer of the United States “to execute th[os]e Laws”, except to assist the President of the United States in fulfilling his own constitutional power and duty to “take Care that the Laws be faithfully executed” pursuant to Article II, Section 3. And, of course, the President is also “Commander in Chief * * * of the Militia of the several States, when called into the actual Service of the United States”, pursuant to Article II, Section 2, Clause 1. So in this regard the power of Congress and the power of the President with respect to execution of “the Laws” are inextricably interlocked, whereas any pretensions of the Armed Forces to such a power are interdicted.

Article I, Section 8, Clause 18 of the Constitution empowers Congress “[t]o make all Laws which shall be necessary and

proper for carrying into Execution [its enumerated] Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." Therefore, in aid of preserving or restoring the continuity of government, Congress may enact "Laws which shall be necessary and proper for carrying into Execution" the power "[t]o provide for calling forth *the Militia* to execute the Laws of the Union", because the latter is one of its enumerated powers. And, for that purpose too, Congress may enact "Laws which shall be necessary and proper for carrying into Execution * * * [the] Power[] vested by [Article II, Section 3 of] th[e] Constitution" in the President to "take Care that the Laws be faithfully executed", in his capacity under Article II, Section 2, Clause 1 as "Commander in Chief * * * of the Militia of the several States, when called into the actual Service of the United States". But, even to secure the continuity of government, Congress is absolutely disabled from enacting any law "to render *the Military* independent of and superior to the Civil power" as a law-enforcement establishment, because Congress lacks an enumerated power "to call forth the Armed Forces to execute the Laws of the Union". And, even with a baneful (because illegal) benediction from Congress, the President could not "take Care that the Laws be faithfully executed" by coöperating in some scheme "to render *the Military* independent of and superior to the Civil power" as a law-enforcement establishment. For, although he is the "Commander in Chief of the Army and Navy of the United States" under Article II, Section 2, Clause 1, neither of those establishments is empowered "to execute the Laws of the Union" under that or any other provision of the Constitution.

Notwithstanding that this country's foundational legal documents are pellucid on these points, the public officials (both civilian and military) and the bobble-heads in the big mainstream media who are conjuring the specter of a military take-over to preserve the continuity of government in the face of the "covid-19" panic have yet to be met with massive

protests. Apparently, all too many Americans have been led to believe that “covid-19” *could* cause both the National and the States’ governmental apparatuses to fail in a manner more catastrophic than they have already failed in numerous ways to date—and that such failures *could* justify intervention by “the Military”.

These beliefs, of course, are not altogether unreasonable. One need not enjoy 20-20 political vision to discern that governments at every level of the federal system have been colonized by all too many incompetent, arrogant, self-aggrandizing, narcissistic, and thoroughly dishonest individuals whom no intelligent American would trust to drive his automobile to the neighborhood mechanic for an oil change. So, as political history records in case after case, people desperate for a modicum of reliable and effective leadership in the midst of a crisis which they do not understand will naturally look elsewhere, typically fixing their hopes on some uniformed and beribboned thaumaturge among the top brass in “the Military”—the legendary “man on a white horse”—who might be able forcibly to extract order out of chaos. Defying logic, though, is why a large segment of America’s population should entertain much confidence that “the Military” which has unsuccessfully waged an endless *military* conflict in Afghanistan against bunches of troglodytes armed with weapons of little better than World War II efficacy could control the United States *even militarily, let alone politically and economically*, in the face of widespread societal collapse that might devolve into something approaching civil war. Surely, if one’s neighborhood mechanic took over a decade to perform an oil change—and *still left out the oil*—one would seek better service elsewhere.

Rather amazingly, almost no one realizes that, if the Militia were organized *according to constitutional standards*, a collapse of the National and many or even all of the State governmental apparatuses would *not* be catastrophic—because We

the People would be ready and able to take over full responsibility for “execut[ion] of the Laws of the Union” and of the States as well. As “execut[ion] of the Laws” is “government”, such a collapse would not occasion a discontinuity of government, but would merely transfer the continuity of government from agents to their principals—that is, from public officials to We the People themselves. In such a transition, of course, the Armed Forces would play no rôle whatsoever.

Part Three

Even the average “blogger” on the Internet realizes that the “covid-19” panic has rationalized a discontinuity of government through the effective seizure of supreme power by public-health “technocrats” in league with rogue public officials. See, e.g.,

♦ blog.nomorefakenews.com

The depth of uncertainty in which their political “leaders” have submerged ordinary Americans in the course of the “covid-19” panic brings to mind the paradoxical saying popular during the Reagan era: “trust, but verify”. To be sure, verification can confirm trust. But unless one’s logic is schizophrenic he does not *both* “trust” and “verify” at the very same time. If he actually trusts, he need not verify. And if he needs to verify, it is because he does not trust. Today, though, ordinary Americans’ dilemma is that, as the hard school of experience teaches, *they have no basis to trust public officials’ pronouncements and no ability to verify them*. Rather, the public must take on faith whatever their faithless servants tell them, without any checks and balances in the process.

Officialdom controls the collection, collation, and storage of—and the general public’s access to—much or even most of the relevant data on “covid-19”. Some useful information is not

collected or retained at all. Some is withheld entirely from the general public. And of that which is released, some is exaggerated, some minimized, some falsified in whole or in part, and some the product of "computer models" which are proven inaccurate only much later on when it is too late to do anything to correct the mistakes the "models" provoked. So for every unit of real information which ordinary Americans can obtain, they must wade through as much or more misinformation and even disinformation.

One absolute certainty, however, has arisen out of this jumble of hoopla, hyperbole, and even hysteria officially orchestrated and then amplified in the echo-chambers of the mass media: namely, that the "covid-19" panic has been and continues to be intentionally and quite cynically manipulated in order to keep ordinary Americans in a state of perplexity, trepidation, and even the mindless frenzy of toilet-paper hoarding, which has rendered all too many people willing to knuckle under to whatever "emergency powers" public officials have chosen to conjure out of nothing, supposedly in the name of "public health", the Constitution and even common sense be damned. Whether by accident or by design, "covid-19" has provided the perfect opportunity for the Powers that Be to test the efficacy of the entire "emergency-powers network" which they have been assiduously setting up for the last three-quarters of a century or so—especially to gauge how many serious intrusions into their lives by "emergency powers" ordinary Americans will meekly suffer. To be sure, some Americans are beginning to wake up to what is going on. But their numbers so far are so insignificant that this test appears to be successful. In the name of "public health", rogue public officials at every level of the federal system have, at an amazing speed and with striking uniformity in their methods, systematically undermined "the security of a free State" to which the Second Amendment to the Constitution refers, and rendered it increasingly difficult for ordinary Americans even to imagine how they might "secure the Blessings

of Liberty to [them]selves and [their] Posterity” promised in the Preamble to the Constitution. Indeed, ordinary Americans have been plunged into a morass of constantly fluctuating *insecurity*, because they may now expect that on any day some new measure curtailing their freedoms may be imposed perforce of an executive dictate supposedly substantiated by the “scientific” findings, advice, and demands of unelected bureaucrats whose opinions average citizens are deemed unable to understand and thus incompetent to challenge, according to public officials and their allies among the talking heads of the mainstream media.

Events have amply demonstrated that a despotic “public-health technocracy” can be imposed relatively quickly and easily on a credulous and coöperative population. (“*Technocracy*” must be distinguished from “*technology*”. The former is a *political system*, the latter a *body of knowledge*. See Patrick Wood’s extensive *oeuvre* on this subject.) These circumstances have effectively negated America’s “Republican Form of Government”—the “Form of Government” in which the people are sovereign and which Article IV, Section 4 of the Constitution requires the United States to “guarantee * * * to every State in th[e] Union”—and replaced it with a “technocratic” directorate under color of which unelected bureaucratic “experts” usurp sovereign authority in league with rogue elected officials who enforce the bureaucrats’ orders, regulations, and guidelines against the general populace. Worse yet, a “technocratic” directorate of this kind is not limited to matters of “public health”. In principle, *any and every* area of political, economic, and social concern as to which bureaucrats can claim “expert” knowledge beyond the ken of ordinary citizens can become the subject, and victim, of “technocracy”.

Of course, any manifestation of “technocracy” constitutes a discontinuity of government which is politically and legally impossible in America according to the principles of the

Declaration of Independence. The Declaration states that all legitimate "Governments * * * deriv[e] their just powers from the consent of the governed". But if "the governed" cannot comprehend what the "experts" in their government supposedly understand, how are they competent to delegate to the "experts" the powers necessary and sufficient for the "experts" to exercise their expertise in an expert fashion? How in their ignorance can "the governed" know what powers to delegate, or to which supposed "experts" to delegate those powers? How, indeed, can "the governed" ever "consent" to *any* state of affairs which their minds are incapable of fathoming?

These conundra aside, it should be evident to even the dullest citizen that the novel "emergency" measures which have been put into operation in response to "covid-19" have a distinctly totalitarian police-state cast to them quite at odds with the physicians' traditional *dictum*: "first, do no harm". Certainly they fit the mold of what the Declaration denounced as "a long"—actually, today, a rather short but no less effective—"train of abuses and usurpations, pursuing invariably the same Object [which] evinces a design to reduce the[People] under absolute Despotism". That this "Despotism" has arrived garbed in the raiment of "public health" makes it especially insidious as well as dangerous, because most people seem inclined to accept almost any limitation on their freedom of action when they imagine that their health is endangered. (Yet, although a supposedly supremely fatal virus said to be capable of infecting everyone in society may provide a sufficient excuse for rogue public officials' imposition of "Despotism" throughout America, recent history teaches that it is not a necessary one. Not so long ago, after all, in the immediate aftermath of the Boston Marathon Bombing large numbers of people supinely acquiesced in rogue officials' commands to "shelter in place" and submit to searches of their homes and seizures of their persons conducted in *para*-military fashion, simply because a single alleged criminal was supposedly at large in their neighborhoods.)

“Technocracy” in the domain of public health has been gestating for some time in this country. Although public health is as clear-cut a matter of national security as could be, since before World War II and continuing thereafter unto this very day, We the People have been unable to exercise proper surveillance of and supervision over either public-health officials and related agencies at any level of the federal system or public-health industries anywhere throughout the United States. Indeed, this deficiency has been and remains true with respect to just about *all* “administrative agencies” and their allied industries in this country. And for a very good reason (from the agencies’ and industries’ point of view) as well as an exceedingly bad one (from the People’s perspective).

Even if some constitutional apology could be offered for a few “administrative agencies” with very circumscribed powers, the basic rationale for most establishments of that sort is *anti*-constitutional. The underlying notion is that “popular sovereignty” and “democracy” are illusions, if not delusions, because this country is simply too complex to be run either directly by We the People themselves or indirectly by the People’s elected “representatives”. We the People are altogether too ignorant to do it on their own; and, even if their “representatives” were any more intelligent, the legislative process is far too contentious and unwieldy to enact the necessary laws in a timely fashion. Therefore, this country should be “administered” by “experts” set up in establishments styled as “agencies” of Congress and thus derivatively of the People, but in reality more or less independent of both. Congress should assign each area of national concern to a specific “administrative agency” staffed by special breeds of unelected career bureaucrats with permanent tenure (“technocrats”) to whom Congress should “delegate” sweeping *quasi*-legislative powers to promulgate regulations, rules, and other guidelines with the force of law (and in some instances to exercise *quasi*-executive and even

quasi-judicial powers to enforce those directives). Thereafter, the People should simply participate in the side-show of "democracy", electing "representatives" who will endlessly fund and enlarge the powers of the "agencies".

Because by hypothesis very few individuals outside of an "agency" are sufficiently competent to deal with the matters assigned to its "technocrats", and because no one (competent or not) outside of an "agency" can become conversant with the myriad details of its innermost operations, no one is qualified to supervise, criticize, or control the activities of an "agency's" personnel other than its own personnel. That is, there can be no external, independent, and effective "checks and balances" on an "agency's" actions. Only the "agencies" are capable of policing themselves. And even if the People's "representatives" in Congress were competent and wanted to do so, they could not possibly oversee dozens of "agencies" filling thousands of pages of the *Federal Register* with new regulations every year. So everyone must suffer the "technocrats" to run this country more or less as they see fit.

Thus, although ostensibly parts of the National governmental apparatus, "administrative agencies" embody within themselves the veriest antithesis of "a Republican Form of Government", because they have usurped We the People's sovereignty and made a mockery of the mandate in Article I, Section 1 of the Constitution that "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States" (not "delegated" to someone else). (And these defects obviously infect "agencies" attached to the States' governments, too.)

The "covid-19" panic has enabled top-level personnel in "administrative agencies" assigned to deal with public health—particularly the CDC and the FDA—effectively to arrogate to themselves something akin to supreme authority over the entire United States, with everyone throughout the federal system obliged to dance to their tunes, no matter how

discordant the music may be. Self-evidently, this is a most unsatisfactory—and dangerous—state of affairs. For no matter how educated, experienced, efficient, and effective public-health “technocrats” may be, they are not the only, or necessarily the best, educated, experienced, effective, and efficient people of their kind in society. Among the tens of millions of Americans who are not public-health bureaucrats pushing papers in some rabbit-warren of the federal system are people who are as, if not more, educated, experienced, effective, and efficient in terms of actual performance of public-health functions. And most of these are more open-minded, ready to listen and then “march to the beat of a different drummer”, than any “technocrat”.

True science, after all, advances through original, imaginative, innovative thinking and experimentation, not adherence to rote formulae and ossified procedures which require wending one’s way through labyrinths of rules while generating mounds of paperwork. True science is the opponent of every mind-numbing orthodoxy. In contrast, bureaucracies and bureaucrats are notorious for their stubborn adherence to institutional orthodoxies of the most stultified sort. The “agencies’” plans, principles of operation, protocols, and procedures seem always to take precedence over practical results.

Whatever their native and acquired skills, most middle- and high-level bureaucrats usually have worked their way up the carrierists’ ladder within their “agency”, demonstrating on each rung not just a sufficient level of personal competence but even more important the right level of compliance with their “agency’s” agenda and institutional culture—the right level of deference, even subservience, to their superiors—and the right level of blind loyalty to the bureaucracy in and for the special interests of which they serve. And bureaucrats at the highest levels all too often have obtained promotion or appointment through mere tenure, canny networking, political

“pull”, or other forms of favoritism, not because they were the best candidates for their positions. So, in too many respects, the operations of public-health bureaucracies have become akin more to a sort of sorcery than to science. Their personnel must intone the right mantras; must perform the right rituals; must follow the right procedures (operating “by the book”); must always assert that they are right and everyone else presumptively wrong; must ignore, exclude, or downplay information which contradicts or even questions the “agency’s” current line; and must never admit error until denial of it becomes impossible, and then must try to pin on someone else the blame for any problems their own mistakes have caused.

Worst of all worlds in the bureaucratic universe is what is known as “agency capture”. “Administrative agencies” are supposed to *regulate* private special interests in the public interest. But as the special interests develop open working relationships or occult channels of influence with the “agencies” and their top-level officials, they bend the “agencies” toward agreement with their agenda, the public interest being slighted, ignored, or even damned in the process. Ultimately, under the guise of coöperation the “agencies” become mouthpieces for the special interests. For example, the FDA’s incestuous relationship with the big pharmaceutical companies is beyond dispute. Repeatedly the FDA has been accused of a bias towards the testing and promoting within the medical community of exotic new and highly expensive drugs of questionable efficacy, not because these substances are the best or the most cost-effective treatments for various diseases, but because their sales generate the greatest profits for “big pharma”.

One benefit of the mess which the ham-handed responses of this country’s “leaders” to the “covid-19” panic have created throughout the United States is that it has begun to shatter ordinary Americans’ naïve notion that politicians, public-

health “technocrats”, greedy corporate executives, élitists dreaming of “global governance” in the form of worldwide medical regimentation of the masses, and the mainstream media which broadcast those miscreants’ propaganda would never sacrifice the livelihoods, the liberties, and even the lives of ordinary citizens in order to serve their own selfish interests. The other side of that coin, however, must be We the People’s recognition—not yet observable to any significant degree—that a pressing need exists to institute vigilant, thoroughgoing, and *independent* oversight of public officials in general, and of public-health “agencies”, their personnel, plans, policies, procedures, and protocols—and especially their proclamations and performance—in particular.

America needed such transparency in the past, because its absence surely contributed significantly to the present unpleasantness. Nothing can be done about that now, however. She needs such transparency in the present, in order to find the most expeditious means by which to extricate herself from the “covid-19” quagmire and its political, economic, and social aftermaths. As matters stand now, though, the People have little way of knowing, with a sufficient degree of confidence, what public officials and public-health “technocrats” are actually doing, why they are doing it, and whether they are right or wrong in doing so. Without transparency brought about by adequate surveillance there cannot be knowledge; and without knowledge there cannot be trust. Within a society awash in politically mandated ignorance, citizens become the victims of manipulation and conditioning by the organized lies of “fake news”, “fake politics”, and even “fake medicine”. The only solution is to put into proper logical order and then rigorously apply the slogan popular in the Reagan era, which should now read: *“verify first, and only afterwards trust what has been verified”*. For America will need transparency in the future, based on that formula, in order to prevent a recurrence of anything like the horrific situation now plaguing her.

Fortunately, *this* can be had, if Americans will simply take into their own hands the constitutional authority and responsibility of the Militia “to execute the Laws of the Union”. But that will require revitalization of the Militia, because the “execut[ion] of the Laws” requires *enforcement mechanisms in being and equal to the task*.

The Militia are not mere “administrative agencies” created by Congressional whim, but instead are integral and permanent components of the Constitution’s federal system. *And Congress cannot refuse to prepare and employ them as the Constitution mandates*. For as general propositions of constitutional law, “[w]hatever functions Congress are by the Constitution authorized to perform, they are, when the public good requires it, bound to perform”; and “whenever a provision of the Constitution is applicable the duty to enforce it is imperative and all-embracing”. *United States v. Marigold*, 50 U.S. (9 Howard) 560, 567 (1850); and *Riverside and Dan River Cotton Mills v. Menefee*, 237 U.S. 189, 196 (1915). Plainly enough, “the public good [always] requires”, *without any conceivable exception*, that “the security of a free State” be preserved for, and that “a Republican Form of Government” be “guarantee[d]” to, every State in the Union (as well as to the United States as a whole). No less plainly, in order to deal effectively with crises as severe as the “covid-19” panic Congress’s “duty to enforce [the Militia Clauses of the Constitution] is imperative and all-embracing”—in the strict legal sense of “duty” as being “obligatory”, “binding”, and “compulsory”; and in the common sense of “all-embracing” as “comprehend[ing]” circumstances of “any sort whatever”. See *Webster’s New International Dictionary of the English Language* (Springfield, Massachusetts: G. & C. Merriam Company, Second Edition Unabridged, 1956), at 1248; and at 836 and 67. And because, as Article II, Section 2, Clause 1 of the Constitution describes them, the Militia are “the Militia of the several States”, these principles apply to the States as well as to the United States.

Perhaps the most important exercise of the constitutional authority and responsibility of the Militia to “execut[e] the Laws of the Union” is (in principle) and should always be (in practice) performance of the supervisory function of assuring that each and every component of the government of the United States—including especially every legitimate “administrative agency”—properly abides by “the Laws of the Union” pertaining to it. Bureaucrats in particular display a distinct penchant for disregarding, circumventing, even disobeying, “the Laws” except when strict compliance therewith is to their advantage. So opacity in their operations and cover-ups of their faults and failures, rather than transparency and exposure, are routinely their orders of the day, every day. Some of “the Laws of the Union”, of course, are addressed to “agencies” dealing with public health, such as the FDA. Compliance with these “Laws” should require interminable and intense supervision, because the “technocrats” in those “agencies” are even more likely than other bureaucrats to succeed in disregarding, skirting, or even thwarting “the Laws”, inasmuch as the few of their misdeeds which somehow come to the attention of the general public the “technocrats” can explain away in dense *pseudo*-scientific jargon quite impenetrable by the average citizen.

Americans must demand that the Militia be allowed to exercise their authority and fulfill their responsibility “to execute the Laws of the Union” for several reasons. First, the Militia are invested with the *explicit* constitutional power and duty to ensure that personnel in the government of the United States obey those “Laws”. (Of course, this power and duty extend to public officials of the several States and their Localities as well, to the extent that various “Laws of the Union” apply to them.)

Second, employment of the Militia in such a supervisory capacity provides the best, if not the only, way to impose a true *federal* check and balance on personnel within the

government of the United States. Because the Militia are “the Militia of the several States”, the people of the States will perform the check and balance *themselves*, not through perhaps insouciant, incompetent, or even disloyal “representatives”.

Third, the Militia have no institutional interest in allowing wayward officials in the government of the United States (or the governments of States and Localities, either) to escape scrutiny, exposure, and punishment for their misdeeds. The Militia owe no loyalty or deference to any of those people, but only to the Constitution at all times and to the President whom Article II, Section 2, Clause 1 of the Constitution designates as their Commander in Chief * * * when [they are] called into the actual Service of the United States” (but only then). As Article I, Section 8, Clauses 15 and 16 of the Constitution make clear, when “execut[ing] the Laws of the Union” the Militia are “employed in the Service of the United States”, not of the individuals who happen temporarily to occupy positions in the governmental apparatus thereof. For when those individuals neglect, fail, or refuse to perform their governmental functions in compliance with the Constitution and other “Laws of the Union”, then to that extent they act not at all as public officials but simply as private wrongdoers. See, e.g., *Poindexter v. Greenhow*, 114 U.S. 270, 287-292 (1885).

Fourth, the Militia have an institutional interest, and their members have personal interests, in subjecting officials of the government of the United States—whether elected “representatives” or appointed bureaucrats—to continuous, comprehensive, and critical surveillance. The Constitution sets no limits to the authority and responsibility of the Militia “to execute the Laws of the Union”, with respect either to what “Laws” may be involved or how the Militia may “execute” them. And no such limits can conceivably exist, because what may prove “necessary to the security of a free State” through “execut[ion of] the Laws” by “well regulated

Militia” will depend upon circumstances as they arise. So the Militia must be fully prepared to exert their jurisdiction as to *all* of “the Laws of the Union” *all* of the time with respect to *all* of the myriad challenges which may confront them in the course of the unpredictable unfolding of future events. Today, of course, the “covid-19” panic has demonstrated beyond peradventure that rigorous policing of feckless or faithless “technocrats” is perhaps the most important task the Militia can *and must* perform if “the security of a free State” is to be preserved anywhere within, let alone everywhere throughout, America.

Moreover, members of the Militia—“the body of the people” in the words of Article 13 of Virginia’s Declaration of Rights of 1776—have their own interests in “execut[ing] the Laws of the Union” through the Militia, because they are the human victims of neglect, failures, and refusals by officials in the government of the United States to perform the duties assigned to them by the Constitution and other “Laws of the Union”. Each and every such delict thwarts one or more of the purposes of the Constitution listed in its Preamble, necessarily to We the People’s detriment. For the Constitution is We the People’s charter of government; and We the People are its intended beneficiaries. So every “technocrat’s” insult to the Constitution necessarily entails an injury to the People. Therefore, if the Militia did not exist as permanent constitutional establishments, the People would have to invent them.

Fifth, no establishments other than the Militia could possibly deploy sufficient numbers of qualified personnel to oversee the workings of the governmental apparatus of the United States. That machinery is composed of many thousands of politicians, “technocrats”, and other ordinary bureaucrats. Nonetheless, in a country with over 300 million inhabitants these officials and operatives are comparatively few in number. In addition, they are not necessarily “the best and

the brightest” who could be found to fill their slots. Indeed, all too often just the opposite is true. If some of them have achieved their positions of power by desert, many more have entered and risen within the system through some accident of history, “networking” or other back-room connivance, or blind luck in line with Väinö Linna’s fictional beatitude that “blessed are the wooden headed, for they shall not sink”. In contrast, the Militia are “the body of the people”, composed of thousands upon thousands of Americans whose education, skills, and experience qualify them actually to perform any and every function in the governmental machinery—and certainly to supervise the workings of “administrative agencies”.

Sixth, Article II, Section 3 of the Constitution imposes upon and delegates to the President the right, duty, and power to “take Care that the Laws of faithfully executed”. In the normal course of events as matters stand today, however, the President has little choice but to rely on “advisors” drawn from the very “agencies” under scrutiny (or suspicion, as the case may be). Yet he cannot expect the “agencies’” own personnel to investigate let alone to police themselves, or to provide him with accurate information for that purpose. However, as “Commander in Chief * * * of the Militia of the several States, when called into the actual Service of the United States” the President is explicitly authorized by Article I, Section 8, Clauses 15 and 16, Article II, Section 2, Clause 1, and Article II, Section 3 of the Constitution to employ the Militia “to execute the Laws of the Union” so as to fulfill his own duty to “take Care that the Laws be faithfully executed”. This means that *one man on his own initiative can bring the full weight of “the body of the people” of the United States to bear against any and every “administrative agency”*. In no other constitutionally legitimate manner can the President (or anyone else) apply such overwhelming force. See the present author’s *By Tyranny Out of Necessity: The Bastardy of “Martial Law”* (Ashland, Ohio: Bookmasters, Inc., 2014, 2016).

In sum, were the Militia in operation as the Constitution requires, personnel throughout the governmental apparatus of the United States—and within “administrative agencies” in particular—would be subjected to continuous supervision, investigation, exposure, correction, discipline, and punishment by appropriately trained observers drawn from We the People themselves and invested with supreme governmental authority “to execute the Laws of the Union” in conjunction with the President’s exercise of his own constitutional right, power, and duty to “take Care that the Laws be faithfully executed” as their “Commander in Chief”. The Militia’s resolute vigilance, healthy suspicion, and skillful detection of the facts would free Americans once and for all from the rumors, misinformation, and disinformation with which disloyal “leaders” and “representatives” now ply them.

In sum, only through mass organization coupled with supreme governmental authority in the Militia can Americans ever hope to smash the “technocrats” in the governmental apparatus, put paid to “technocracy”, and regain control over their own country.

Part Four.

To be sure, it is one thing to point out the obvious—namely, that the present situation is an unprecedented mess—whereas it is quite another to identify whom to blame for it. And as to all aspects of the “covid-19” panic and its allied effects taken together, there is surely quite enough blame to go around. But, if focus is had specifically on *the absence of the Militia* at the present time, one group must bear a particularly heavy weight of culpability.

To put this into historical context, in the late 1960s and early 1970s patriotic Americans finally realized that proponents of “gun control” were not merely isolated cranks and fanatics, but instead were sophisticated and dedicated enemies of the Constitution with not only a set purpose and

plan to strip ordinary Americans of their possession of firearms, but also a great deal of political acumen and influence through the use of which to bring their schemes to fruition. For example, the Gun Control Act of 1968 eschewed an intent "to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap shooting, target shooting, personal protection, or any other lawful activity". AN ACT To amend title 18, United States Code, to provide for better control of the interstate traffic in firearms ("Gun Control Act of 1968"), Act of 22 October 1968, Pub. L. 90-618, § 101, 82 Stat. 1213, 1213-1214. Anyone with enough political savvy to parse legalistic jargon, though, well understood that this disclaimer would never have prevented future "restrictions" which "gun controllers" would have touted as "[]due or []necessary". And in any event it did not include "the acquisition, possession, or use of firearms appropriate to the purpose of [service in the Militia]", notwithstanding Congress's constitutional duty "[t]o provide for * * * arming * * * the Militia" under Article I, Section 8, Clause 16. Even more ominously, "gun controllers" in lofty positions in the government of the United States around that time expressed the view that "we should not be involved in promoting general civilian use of firearms" at all. Statement of Robert E. Jordan, General Counsel of the Department of the Army, December, 1970, discussing the Director of Civilian Marksmanship program, *quoted in* Bruce N. Canfield, *The M1 Garand Rifle* (Woonsocket, Rhode Island: Andrew Mowbray Publishers, 2013), at 617-618. This, notwithstanding that the Director of Civilian Marksmanship program (now styled the Civilian Marksmanship Program) was obviously linked through constitutional cause and effect to Congress's duty "[t]o provide for * * * arming * * * the Militia".

In order to defend against "gun control", during the early 1970s champions of the Second Amendment seized on the

exemption promised in the Gun Control Act of 1968 for “the acquisition, possession, or use of firearms appropriate to the purpose of * * * *personal protection*”, and began to engage in public education, lobbying, litigation, and the support of candidates for election to public office on behalf of what they called “the individual right to keep and bear arms”, which they located in the last fourteen words of the Second Amendment, with studied disregard for the Amendment’s first thirteen words. From then unto the present day this activism has continued, at ever-increasing levels of vehemence. During these almost fifty years, huge amounts of time, talk, travail, and treasure have been expended—and, if the truth be told, have been squandered to no long-term, lasting effect in aid of “the security of a free State”. For these efforts did nothing to explain, promote, or even acknowledge the existence of the Militia, let alone their constitutional “necess[ity] to the security of a free State” and what “Arms” “the people” had a “right * * * to keep and bear” for the purpose of Militia service. In fact, proponents of “the individual right to keep and bear arms” routinely disregarded, derided, denounced, and even demonized people who attempted to bring the Militia into the otherwise wide-ranging and strident national debate about “gun control”. At the same time, “gun controllers” devised one excuse after another for constricting the class of “firearms appropriate to the purpose of * * * personal protection”—until, in judicial decisions such as *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017), they popularized the notion that “weapons of war” are not “appropriate to the purpose of * * * personal protection”. Under this theory, *no* firearm which has been, is being, or could under any circumstances be used as a “weapon of war” in any sort of “war” would be so “appropriate”. And therefore every such firearm—including essentially every type of firearm produced since the late 1890s—could be subjected to “restrictions”.

Worse yet from the perspective of political inclusiveness and persuasiveness, by their narrow focus on firearms advocates of

“the individual right to keep and bear arms” limited the natural and necessary constituency from which they could and should have drawn adherents to their cause. In declaring that “[a] well regulated Militia” is “necessary to the security of a free State”, *the Second Amendment neither states nor suggests any limitation on the types of “security” which may be involved*. So, if the opponents of “gun control” had drawn attention to the many possible responsibilities of the Militia *other than the performance of military, para-military, and police functions involving firearms*, they could have favorably influenced people indifferent to firearms, but who were willing to contribute their own efforts in some other manner towards thoroughgoing public preparedness at the Local level where they lived and worked. With such a broad-based constituency, a movement aimed at *full* enforcement of the Second Amendment could have made headway in many States, or in some States, or surely even in a single State, and thus have shown to some degree what could be done throughout this country. But what “could have happened” did not happen, because it was given no chance to happen.

To be sure, that was then, this is now. Nevertheless, with respect to the “covid-19” panic, *le plus ça change le plus c’est la même chose*. True enough, Americans of apparently all political persuasions are buying firearms and ammunition in record amounts for the purpose of personal protection. Nevertheless, this has not stopped, reversed, retarded, or deterred the systematic suppression of their constitutional freedoms (let alone preparations for a full-blown military takeover in the name of the continuity of government). Rather, under the gossamer-thin camouflage of politicians’ and “technocrats’” unctuous concerns for “public health”, one tyrannical edict after another has encroached on everyone’s “life, liberty, and property”. And “the individual right to keep and bear arms” has done *nothing*, because it is incapable of doing anything, about it.

To be fair to them, proponents of “the individual right to keep and bear arms” do not tout its defense specifically as a public-health measure—although perhaps they should, inasmuch as the most aggressive *pseudo*-scientific “gun controllers” argue that civilians’ possession of firearms constitutes a danger to public health, and should be prohibited on that ground alone. Yet, even before the emergence of “covid-19”, “the individual right to keep and bear arms” had proven itself incompetent to defeat old-fashioned, run-of-the-mill “gun control”.

Beyond dispute, throughout America “gun controllers” are more numerous, more organized, more fanatic, and more successful today than ever before. Rather than having been eliminated, they have “gone viral”. It seems that, on balance, We the People’s disloyal “representatives” are churning out far more legislation and judicial decisions in favor of “gun control” than against it—as evidenced by the recent sorry experience of Virginians in the 2020 Session of their General Assembly. And “gun controllers” are recording achievements far more consequential than what they attained in the Gun Control Act of 1968—achievements which would never have had a proverbial snowball’s chance in Hell of passage at that time.

Certainly the vaunted decision of the Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), has not slowed, let alone stopped, the advance of “gun control”. To the contrary, in some instances *Heller* has aided, if not accelerated, it. See *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017). And, irony of ironies, notwithstanding *Heller* people in the District of Columbia cannot obtain the very firearms which *Heller* ruled that they have a constitutional right to possess. For as of this writing, the one actual federal firearms licensee in the District has refused to transfer firearms to residents of the District. And although the Mayor has designated the metropolitan police department as an *ersatz* FFL, residents of the District may take advantage of that

dispensation to acquire only rifles or shotguns, *not handguns*. See, e.g.,

◆ Dailycaller.com

◆ Dcist.com

So (in Southey's words) *Heller* "'twas a famous victory" indeed! But one which, in its inapplicability in the very place where it should be applicable, proves the fecklessness of "the individual right to keep and bear arms".

"The individual right to keep and bear arms" has failed to eliminate "gun control", because it is incapable of eliminating "gun control". After all, according to its own proponents, the ultimate defense of that right is litigation. (*Endless* litigation, too, because, as *Heller* evidences, even a decision of the Supreme Court favorable to "the individual right to keep and bear arms" will not necessarily secure that right for the class of people to whom the decision applies.) So, as soon as some egregious piece of "gun-control" legislation is enacted, the champions of "the individual right" announce that they will rectify the situation through a major "test case" in the courts. This is more a proof of their naïveté (or their desperation) than a "test" of anything. For what seasoned legal-*cum*-political strategist would consider it a wise operational plan to allow "gun controllers" both to take the strategic offensive in the legislatures and to adopt the tactical defensive in the courts?

All too often, going to "law" in contemporary America's kangaroo courts in defense of basic constitutional freedoms is a fool's errand. Certainly, proponents of "the individual right to keep and bear arms" can never hope to prevail decisively, once and for all, when the supposed "standard" for the constitutionality of each new "gun-control" measure is some so-called "compelling governmental interest" the existence of which legislators in the initial, judges in the final, analysis claim the authority to determine on a statute-

by-statute, case-by-case basis, according to their own idiosyncratic notions of what appears “commonsensical” and “reasonable” to them at the time. No issue of “gun control” can ever be permanently settled on the basis of “the individual-right theory”, because a “compelling governmental interest” is not a *scientific* concept, subject to final verification or falsification through objective analysis. Rather, what some judges may opine is not a “compelling governmental interest” today other judges can (and probably will) find to be a “compelling governmental interest” tomorrow. As long as “gun control” is disputed on these terms, “gun controllers” will have the upper hand.

Worse yet, while proponents of “the individual right to keep and bear arms” serially contend with “gun controllers” in legislatures and courts over whether some new restrictions infringe on that right or not, the real task confronting patriotic Americans remains neglected. “The individual right” has done *nothing* to advance the Militia (or any other form of nationwide collectively organized public preparedness). Indeed, it has undermined the Militia by misidentifying “the core value” of the Second Amendment as personal (rather than community) self-defense. Its most prominent spokesmen ignore the Militia entirely, belittle the Militia, or treat the Militia as some sort of dangerous extremist conception. And if they support “militia” at all, it is as *ad hoc* self-selected groups of private individuals dispersed throughout the hinterlands and disconnected from one another, which supposedly somehow, somewhere, some day, and in some way (all unspecified) will be able to coalesce—to organize, equip, discipline, and train their members to act in unison—and then to defeat the centrally controlled, highly organized, well armed, firmly disciplined, and thoroughly trained forces of a nationwide tyranny.

If the truth be told in all of its depressing detail, “the individual right to keep and bear arms” is conceptually

fantastic, because it utterly disregards the *pre-constitutional* history of the Colonial and State Militia which establishes what “[a] well regulated Militia” is, what the inextricable interrelationship between such a Militia and “the right of the people to keep and bear Arms” is, and therefore what the substance of that right is. It is constitutionally fallacious, because it separates the first thirteen words of the Second Amendment from the last fourteen words, in violation of logical, linguistic, and legal principles. It is fatuous, because the notion that isolated individuals, no matter what “rights” each of them may claim in theory, can in fact provide “the security of a free State” rests upon an ill-founded hope predicated upon a dearth of practical insight. It is futile, because it cannot protect itself against legislative and judicial aggression launched under color of such phony rubrics as “compelling governmental interest”, “public safety”, “for the children”, “commonsense regulation”, and so on *ad nauseum*. It is factious, because it enables “gun controllers” to incite one segment of society against another—namely, people who are suspicious of firearms *versus* owners of firearms—whereas promotion of the Militia would unite Americans of *all* persuasions as to the necessity for collectively organized security of *every* type in *every* Locality involving *everyone* throughout this country. It would surely be exposed as feckless in the face of attacks by the armed myrmidons of any usurpers or tyrants worthy of those names. And ultimately it will prove fatal to “the security of a free State”, because it cannot succeed on its own terms, and by its perverse misreading of the Second Amendment prevents revitalization of the Militia from succeeding.

Part Five

Even identifying who is largely to blame for this country’s present vulnerability to the imposition of a full-blown despotic “technocracy” does not specify what is to be done about this situation, however. For that, recourse must be had

to the old adage that every cloud has a silver lining.

As the dark cloud of the “covid-19” panic has cast its shadow across this country, insightful Americans have come to realize that “technocracy” and allied tyranny in other forms—what could be described in the words of the Declaration of Independence as “a long train of abuses and usurpations, pursuing invariably the same Object [which] evinces a design to reduce the[People] under absolute Despotism”—are endemic and solidly entrenched within governmental apparatuses at every level of the federal system. To those with eyes to see, the panic has also exposed “the individual right to keep and bear arms” as useless against the dangers these “abuses and usurpations” pose.

The silver lining is that, because of this crisis, Americans can finally realize that fixation on “the individual right to keep and bear arms” has flushed some *fifty years’* worth of misguided efforts down the soil-pipe of history, leaving them intellectually, politically, and legally bankrupt. Now, at last, they can see how everything which has gone wrong points out what must be done to set things right.

Patriots who do not die of fright induced by the *pseudo*-scientific scare-tactics of public-health “technocrats”, the threats of rogue public officials, and the rants of bobble-heads in the mainstream media can and should recognize the “covid-19” panic as an irrefutable reason to demand revitalization of the Militia. Indeed, the crisis *must* be so used, because America’s domestic enemies surely will rely upon it, again and again, as *the* precedent for pushing this country, faster and faster, farther and farther, along the path of totalitarianism, both within the United States and through the imposition of some “globalist” régime.

So, how are patriots to go about revitalizing the Militia? In outline—

(1) Patriots must put into the proper context the principles of popular sovereignty enunciated in the Declaration of Independence, "That whenever any Form of Government becomes destructive of the[] ends [for which Governments are instituted among Men], it is the Right of the People to alter or to abolish it, and to institute new Government", and that "when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce the[People] under absolute Despotism, it is their right, it is their duty, to throw off such Government". We the People can invoke these rights, duties, and powers at *any* time the People deem their application to be appropriate. Today, however, to suppress "technocracy" and establish a full set of checks and balances enforceable against public officials by the People themselves requires neither that the People "alter", "abolish", or "throw off" any government existing within the federal system, nor that they "institute new Government" anywhere within America. For the "Form of Government" the Founders handed down to the People has not become destructive of the[] ends" for which it was originally instituted.

True enough, this country has suffered, and continues to suffer, from "a long train of abuses and usurpations"—of which the existence and operations of "administrative agencies" stuffed with "technocrats" are egregious examples. And, true enough, this "long train" has "become[] destructive of the[] ends" for which America's federal system of government was instituted. The problem, however, is not this country's "Form of Government", but instead the "abuses and usurpations" which *deform* governmental apparatuses at the National, State, and even Local levels. By definition, these "abuses and usurpations" are not parts of the "Form of Government". The "Form of Government" neither allows for nor approves of them. Inasmuch as We the People can "alter", "abolish", or even "throw off" an entire "Form of Government [which] becomes destructive of the[] ends" for which it was instituted, they surely can exercise the "just powers" their forebears

originally delegated to that "Form of Government" so that it may continue to serve those "ends". They surely can revitalize, rejuvenate, and renovate—in order to protect, preserve, and pass on to their posterity—"the [existing] Form of Government" by "abolish[ing]" or "throw[ing] off" all of the encrusted "abuses and usurpations" which have neither place nor purpose therein.

Notwithstanding what hysterical charges "technocrats" and their allies amongst rogue public officials can be expected to broadcast, calling and working for revitalization of the Militia—by constitutional means, of course—in order to put down "technocracy" and to establish, finally, a full set of checks and balances enforceable against public officials throughout the federal system by We the People themselves is not some sort of "rebellion" against established authority. Rather, the "long train of abuses and usurpations" in which "technocrats" and rogue public officials have engaged for decade upon decade constitutes open and obvious "rebellion" against American's "Form of Government". *For under that "Form of Government" "technocrats" and rogue public officials can claim no authority whatsoever.* See the present author's book *Three Rights* (Ashland, Ohio: Bookmasters, Inc., 2013)

(2) By carefully perusing the Constitution, patriots must come to the realization that the only way We the People can exercise their right, duty, and power to secure their "Form of Government" now and for the future is by revitalizing the Militia. Patriots must stop fixating on the last fourteen words of the Second Amendment and instead take into proper account its first thirteen words, too, along with the Militia Clauses of the original Constitution to which all twenty-seven words of the Amendment relate (that is, Article I, Section 8, Clauses 15 and 16, and Article II, Section 2, Clause 1). They must come to the conclusions that: (i) "the right of the people to keep and bear Arms, shall not be infringed" so that "the people" will always be capable of serving in "well

regulated Militia” and thereby providing “the security of a free State” to themselves through their own efforts; (ii) “the people” have a constitutional right “to keep and bear Arms” in “well regulated Militia”; and (iii) “well regulated Militia” in which “the people” can “keep and bear Arms” for Militia service must exist at all times. (And, of course, because “the people” in “well regulated Militia” have a constitutional right to “keep and bear Arms” of all types at all times, they obviously have an allied constitutional right to use those “Arms” for personal self-defense when that need arises.) See the present author’s book *Thirteen Words* (Ashland, Ohio: Bookmasters, Inc., 2013).

(3) To prevent revitalization of the Militia from being perceived as some kind of warmed-over Second-Amendment confidence-game cooked up by the so-called “gun lobby” simply to promote the sales of firearms to America’s gullible “Deplorables”, its proponents must appeal to and recruit large numbers of Americans who heretofore have been outside of the set of typical owners of firearms, have been disinterested in or ambivalent towards that Amendment, and may even have been sympathetic to “gun control”. The “covid-19” crisis will prove invaluable in this endeavor. For, obviously, *everyone* is in the same boat with respect to the defense and maintenance of public health against “technocrats’” incompetence, arrogance, and lust for power. So *everyone* has the same interest in revitalization of the Militia on that score—which necessarily will result in revitalization of the Militia with respect to all of the other activities in which the Militia could, should, and would engage, whether involving firearms or not.

(4) America’s self-styled “élitists” being her most committed and (notwithstanding their relative paucity of numbers) most dangerous domestic enemies, the movement to revitalize the Militia must aim at organizing masses of *ordinary* Americans at “the grass roots”. Thirteen years ago, the present author described a plan to start the process at the Local level

through individual citizens' concerted efforts to form "citizens' homeland security associations". See *Constitutional "Homeland Security": The Nation in Arms* (Ashland, Ohio: Bookmasters, Inc., 2007). Unfortunately, next to no one has paid any attention to these suggestions—for thirteen years. Now, the "covid-19" panic has created an entirely different environment. On the one hand, so far through 2020 Americans have been shown how quickly despotic executive decrees can be promulgated and put into practice on the airy advice of public-health "technocrats", in plain violation not only of the First, Second, Fourth, Fifth, and Fourteenth Amendments to the Constitution, but also of all sorts of protections of individuals' rights to be found in various statutes and judicial decisions. On the other hand, Virginia's "Second Amendment Sanctuary" movement from late 2019 into early 2020 (and which, one hopes, will continue well into the future) has demonstrated how quickly Local governments prodded by Local citizens can generate *official* resolutions, remonstrances, and protests against—and refusals to comply with—acts of governmental "overreach" proposed at the State level. (To be sure, so far these Local initiatives have taken the form of words alone, not actions. But that they have occurred at all is singularly significant.)

(5) In line with the suggestions made in *The Nation in Arms*, now to be improved by insights and experience gained from the "covid-19" crisis, Local citizens should organize *private* "citizens' homeland security associations" (under that or some other innocuous name), as much as possible in close conjunction with Local governments through liaison teams which will keep Local officials informed of what the citizenry is doing and why.

(6) As soon as practicable, citizens should encourage, prod, and pressure their Local governments to use whatever powers they possess to set up *official* "citizens' emergency-preparedness teams" (under that or some other innocuous

designation), initially by drawing upon the “citizens homeland security associations” already established in their Localities, then by recruiting as many other people as possible as quickly and expeditiously as possible. Although these teams will *not* be “Militia” in the *constitutional* sense, *and should not be denominated as or considered to be “militia” in any sense*, they probably can be assigned some (perhaps a great deal of) “militia”-like authority under the States’ “emergency-preparedness” statutes which authorize planning and action by Local governments. See, e.g., Code of Virginia § 44-146.19(E). And, in some jurisdictions, Sheriffs might organize such “citizens’ emergency-preparedness teams” as units of the *posse comitatus* (although this might prove problematical, inasmuch as in many places a *posse comitatus* may be organized only as an *ad hoc* response to a particular law-enforcement situation).

(7) From a position of strength obtained through widespread political and community organization already had, Local public officials should *demand* that State officials form Local, Regional, and State-wide investigatory commissions or committees to determine how—not “whether”, but *how*—full revitalization of the Militia should proceed throughout their State. And if State officials dawdle, tarry, neglect, fail, or refuse to take the necessary actions, Local governments should set up these commissions or committees for and amongst themselves on their own initiatives, *all the while organizing, completing, perfecting, and when necessary deploying their own “citizens’ emergency preparedness teams”*.

To these ends, Local officials should employ the “Second Amendment Sanctuary” approach made famous in Virginia—with the difference that, rather than “sanctuaries” established solely for defense of “the individual right to keep and bear arms” against the aggression of “gun controllers” in the State’s central government, “citizens’ emergency-preparedness teams” would be salients out of which counterattacks would be

launched to win the big battle once and for all, through revitalization of the Militia.

(8) The commissions or committees recommended above would provide the information and impetus for State officials to begin the process of revitalizing the Militia at the State level with new statutes based upon the experience gained at the Local level (and delegating to officials at that level a great deal of autonomy for further experimentation and evaluation).

(9) Then States individually, or through interstate commissions, would *demand* that Congress proceed to revitalize the Militia at the National level in a manner consistent with and supportive of what the States have done. This work should be closely coördinated with the President of the United States, who has a direct personal interest in the project. See Article II, Section 2, Clause 1, and Article II, Section 3 of the Constitution; *and, e.g.*, 10 U.S.C. §§ 252 and 253.

(10) Finally, one should hope that leading individual and institutional proponents of “the individual right to keep and bear arms” will wake up and play at least a supportive rôle in this endeavor. To be sure, proponents of “the individual-right theory” are only half right—but even a halfwit is better than no wit at all. Some of these institutions—such as the NRA—are well organized and funded. Some have significant presences on the Internet and in the alternative media. Some can boast large numbers of members and hangers-on who will follow their leaders’ recommendations. Some have extensive experience in public relations, lobbying, litigation, and the election of candidates to public office. And, most realistically, *right now they are all Americans have with which to work.*

Suggestions such as these, though, are one thing, actions another. Unfortunately, time is fast running out. Bismarck is said to have quipped: “Let us leave a few problems for our children to solve; otherwise they might be so bored.”

Americans cannot leave *this* problem for their children to solve. When, in his earlier commentaries, the present author urged his countrymen to revitalize the Militia “immediately, if not sooner”, he intended that quip to embody the quintessence of urgency. The way things are going now, however, the Militia had better be revitalized well before that.

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