

Is Obama going to create crisis to suspend the November election?

No Perpetual "Emergency" Presidency

Constitutionalists, patriots, and other friends of freedom in ever-increasing numbers are expressing their fears that the present resident of the White House, Barack Obama, intends, under color of some real or contrived "emergency", to suspend the National elections this November, declare "martial law", and expand the ambit of his usurpatory rule from that of an arguably faux yet only temporary President to that of an authentic and permanent dictator, in service of some absurdity such as a supposed necessity to maintain "the continuity of government". In light of the possibility of a nationwide calamity in the near future (especially likely in the economic realm), and of Mr. Obama's own personality and past pattern of misbehavior under color of public office, these concerns cannot be easily dismissed as mere delusions springing from paranoid imaginations. Nonetheless, from the constitutional perspective, they are entirely devoid of foundation.

No need exists to repeat here the extensive analysis in my book *By Tyranny Out of Necessity: The Bastardy of "Martial Law"*, which explains that so-called "emergency powers" are bunkum, and "martial law" (as most Americans understand it) bunkum to the second power. The only "martial" institutions to which the Constitution delegates the responsibility and authority "to execute the Laws of the Union", whether in an "emergency" or otherwise, are "the Militia of the several States". But "the Militia of the several States" consist of the body of WE THE PEOPLE of the United States. And the very last thing Mr. Obama would ever want to admit in a public forum is that WE THE PEOPLE enjoy the unique constitutional

power, in “martial” institutions especially, to “execute the Laws of the Union” against anyone and everyone who might dare to transgress those “Laws”—himself included. So, putting to one side “emergency powers” and “martial law” as the irrelevant anti-constitutional fantasies they are, the only question which needs to be answered is: “Does the Constitution provide any means by which Mr. Obama can perpetuate his residency in the White House in the guise of ‘President of the United States’ on any excuse whatsoever?” The answer is “No”.

1. Even if Mr. Obama were “a natural born Citizen * * * eligible to the Office of President” under Article II, Section 1, Clause 4 (which in the absence of sufficient evidence remains an open question), Section 1 of the Twenty-second Amendment precludes him from being “elected to the office of the President more than twice”. Of course, the premiss of the instant analysis is that no Presidential election at all would occur in November of 2016; and therefore he could not possibly become even a faux “President elect” under color of the Twelfth Amendment. That being so, perforce of Section 1 of the Twentieth Amendment his present, possibly faux “term[as] the President * * * [would] end at noon on the 20th day of January”, 2017. By dint of that same Section, the present, but also arguably faux term of Mr. Joseph Biden as “Vice President [would] end” at the very same time.

2. In the normal course of events, someone other than Mr. Obama would be chosen as President elect in the 2016 elections, and would take the “Oath or Affirmation” of “the Office of President” on 20 January 2017, pursuant to Article II, Section 1, Clause 7. But, were no National elections conducted in November, no one would be chosen President elect or Vice President elect. Under those circumstances, Section 3 of the Twentieth Amendment would take effect:

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.

Plainly enough, however, under this Section and Section 1 of the Twenty-second Amendment, Congress could not arrange matters such that Mr. Obama could continue to “act as President”, because the general terms of the latter provision—namely, that “[n]o person shall be elected to the office of the President more than twice”—must encompass “elect[ion]” by any means. For the purpose of the Amendment is absolutely to preclude repetition by anyone else of Franklin D. Roosevelt’s effective “life tenure” in the “the office of the President”, even were America’s electorate to desire that result. So, significantly, unlike many other Amendments the Twenty-second does not empower Congress “to enforce this article by appropriate legislation” at all, let alone in a manner which contradicts its obvious purpose. Contrast Amendment XIII, Section 2; Amendment XIV, Section 5; Amendment XV, Section 2; Amendment XIX; Amendment XXIII, Section 2; Amendment XXIV, Section 2; and Amendment XXVI, Section 2. And inasmuch as the Twenty-second Amendment follows the Twentieth, it must limit the power of Congress granted in the latter Amendment in such wise as to fulfill the purpose of the former Amendment.

3. An apparent problem would be that, were no National elections held in November of 2016, there would be no Members elect to the House of Representatives at all, and no Members elect to one third of the Senate. Under Section 1 of the Twentieth Amendment, “the terms of Senators and Representatives” already in office in 2016 “shall end” “at noon on the 3d day of January, [2017,] of the years in which such terms would have ended if this [Amendment] had not been

ratified; and the terms of their successors shall then begin". Were no National elections held, no such "successors" whose "terms shall then begin" would be available to fill those positions in Congress. Indeed, with no House of Representatives at all from 3 January forward, no Congress would exist, inasmuch as (by definition in Article I, Section 1) "a Congress of the United States * * * shall consist of a Senate and House of Representatives", in which (pursuant to Article I, Section 5, Clause 1) "a Majority of each shall constitute a Quorum to do Business". With two thirds of the Senate still in office, "a Majority" of that body would exist; but with no Representatives having been elected, "a Majority" (or any other part) of the House would not.

This problem would be only apparent and not a permanent debility, however. For, if the States' governments continued in existence (as presumably they would), "[w]hen vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies" (Article I, Section 2, Clause 4); and "[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" (Seventeenth Amendment). So, even were no National elections held in November of 2016, the States' "Executive Authorit[ies]" could take the necessary and sufficient steps to ensure that the constitutionally required Representatives and Senators were appointed in time to take office on 3 January 2017. Thus, Congress could be reconstructed before the possibly faux terms of Mr. Obama and Mr. Biden as President and Vice President ended on 20 January.

4. Were Congress so reconstructed, the House of Representatives could select its Speaker, and the Senate could select its President pro tempore, before 20 January. That having been done, Title 3, United States Code, Section 19, would come into play:

(a)(1) If, by reason of * * * failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President. * * *

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, there is no Speaker, or the Speaker fails to qualify as Acting President, then the President pro tempore of the Senate shall, upon his resignation as President pro tempore and as Senator, act as President.

(c) An individual acting as President under subsection (a) or subsection (b) of this section shall continue to act until the expiration of the then current Presidential term [with certain exceptions not relevant here].

This commentary need not recite the further possibilities for other officials to be installed as the "Acting President" if neither the Speaker of the House nor the President pro tempore could perform that function. See 3 U.S.C. § 19(d) and (e).

The final, indisputable point is that even if Barack Obama is actually the President of the United States (rather than an imposter) at this juncture in the course of human events, perforce of the Constitution and the relevant statute he cannot continue in that status past 20 January 2017, no matter what supposed "emergency", real or contrived, might arise and be put forward to rationalize cancellation of the National elections in November of this year. As far as he is concerned, America's National nightmare of the last eight years' duration will end on that day. Americans must hope and pray that Providence will then preserve them from something even worse.