

The Corona Virus, An Emergency or No?



By Rep. Phil Hart

My observation is that the Corona Virus is real; after all, the back of a can of Lysol says the spray from such a can will kill it. I think Covid-19, which is the 2019 edition of the Corona Virus, is real too; as I got sick from it. The first two weeks of January, I was in Europe at a place with many Chinese visitors, most of whom were wearing masks. One minute everything was normal for me. The next minute mucus was pouring out of my eyes, a condition that went on for days. Two weeks later I was very sick with flu like symptoms, but I recovered to write this article.

We are now into this Corona Virus “Pandemic” for over two thirds of a year. What have we learned about Covid-19 so far? We have learned that it is highly contagious, in that a lot of people “get it.” But of those who “get it”, 65 percent of them are asymptomatic. We have learned that there is no other virus like it, so that before its arrival, there was no “herd immunity” among the human population as no one had “seen” this virus before.

We also have a track record as to the mortality rate of the Covid-19 virus, which can be compared to other historical pandemic events. The Black Plague, which originated in central Asia 1346, and came to Europe by way of the trade routes to the Black Sea, then to the Black Sea’s Crimea Peninsula, and next to Constantinople 1347, where the Black Sea joins the Mediterranean Sea. The Black Plague killed

sixty percent of Europe's population.

In 1918, the Spanish Flu broke out in the United States and quickly spread around the world. Out of a world population of 1.8 billion, 500 million people were infected and sick from it and reportedly 40 million died.

If we compare these two pandemics to today's world population of 7.7 billion, the Black Plague would have killed 4.6 billion people, and the Spanish Flu would have killed 171 million people. According to the World Health Organization, as of the end of July 2020, 695,000 people worldwide have purportedly died from the Covid-19 Corona Virus flu. Is this a pandemic?

In the United States, American's life-expectancy is 75 years. With a population of 330 million people, if everyone lived exactly 75 years to the day, 4,400,000 Americans would die each year, 340,000 would die each month and 12,050 would die each day. This is normal life. We all live and eventually die. Death is part of life. In the New Testament we find at Hebrews 9:27 "...it is appointed for men to die once, but after this comes judgment."

If we take the 695,000 world wide deaths for the first seven months of 2020, and we annualize that number, we get 1.2 million. However, nearly everyone who has died with the Covid-19 bug has also had two or three other serious medical issues. And lately, it has been the practice to list Covid-19 as the sole cause of death even if the person was killed in an auto accident. But even so, 1.2 million deaths from Covid-19 as compared to a 2020 number of 4.6 billion deaths from the Black Plague and 171 million deaths from the Spanish Flu we can see that the Covid-19 pandemic is not a pandemic at all.

After the first seven months of 2020, there have been 154,000 Covid-19 deaths in the United States. Annualizing the death numbers of 154,000 deaths in the United States to a full year

we get 264,000. Comparing 264,000 Covid-19 deaths to the expected 4,400,000 people who will die each year in the USA “from normal life” and we see we don’t have a pandemic in the USA either.

What makes the Covid-19 virus unusual is that, according to “experts” it is a combination of five other viruses’ and something no one had even seen before. This makes it highly contagious to vulnerable people, because they have not developed a natural immunity. There are credible professionals, including Dr. Yan who used to work in the Wuhan Institute of Virology Lab in China, who say this virus was man-modified. It would be energy well spent to investigate these claims, and if true, hold those accountable for its creation as a way to prevent the future release of other man-made, or man-modified viruses. Any state, county or city with an investigatory agency should be looking into this issue.

Emergencies are largely undefined in law. Which makes sense, as the possible number of scenarios as to what could constitute an emergency is infinite. During my eight years as a member of the Idaho Legislature, I authored one emergency bill that caused the United States Congress, three days later, to pass legislation giving our state what we needed to extinguish our emergency and avoid the lawsuits that would have followed. My legislation must have been on target, otherwise Congress would not have acted as it did, even going so far as to limit the jurisdiction of the federal courts to hear cases on my bill.

In Idaho, and our Legislature wisely defined in statute what constitutes an “extreme emergency” at Idaho Code 46 – 601.

“State of extreme emergency” means: (a) the duly proclaimed existence of conditions of extreme peril to the safety of persons and property within the state, or any part thereof, caused by an enemy attack or threatened attack; or (b) the duly proclaimed existence of conditions of extreme peril to

the safety of persons and property within the state, or any part thereof, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot or earthquake, insurrection, breach of the peace, which conditions by reason of their magnitude are or are likely to be beyond the control of the services, personnel, equipment and facilities of any county, any city, or any city and county.

This code section provides criteria as to what the affects of an extreme emergency are. This includes "conditions by reason of their magnitude are or are likely to be beyond the control of the services, personnel, equipment and facilities of any county, any city, or any city and county."

On March 25, 2020, Idaho's governor issued a Proclamation declaring a *State of Extreme Emergency*. This included a "stay at home order" which applied to everyone. Five months later, various counties and cities have added mask ordinances, social distancing ordinances and other criteria as to which business can be open and which must be closed. Yet nowhere in Idaho has the Covid-19 infection rate been so bad it has been "beyond the control of the services, personnel, equipment and facilities..." In other words, there is no emergency.

There is no emergency. We do not have sixty percent of the population dying as in the 1340s when the Black Plague swept through Europe. We do not have 28 percent of the population sick and two percent of the population dead as we did between 1918 to 1920 from the Spanish Flu. Current data shows that the overall affect of the Covid-19 flu to be less than that of the average annual influenza virus. There is no emergency!

If there is no emergency, then state governments, county governments and city governments are without any authority to exercise emergency powers. After all, it is just common sense that before you can declare an emergency, you must have an emergency.

The stay at home orders, the closure of businesses, the requirements that people wear masks, stand 6 feet apart and so on have all contributed to a slowing of the economy. Businesses have failed. People have lost jobs. Investments have gone bad. Suicide is up. Alcohol consumption is up. Domestic violence and sexual abuse has increased all as a result of the non-emergency emergency.

These negative effects on peoples' life and property, caused by the "lock-down" decisions of government actors, are a type of "constitutional taking," and all those affected are entitled to compensation. In the 1946 case of *United States v. Causby*, Causby's chicken farm was affected by the use of a nearby airport by military aircraft. Causby's chicken farm was directly under the final approach for one of the airport's runways. The aircraft passed so low over the Causby property that his chickens often committed suicide because they were frightened by the low-flying aircraft. The government did not "take" the Causby farm, the court said,

"As a result of the noise, respondents had to give up their chicken business. As many as six to ten of their chickens were killed in one day by flying into the walls from fright. The total chickens lost in that manner was about 150. Production also fell off. The result was the destruction of the use of the property as a commercial chicken farm." *United States v. Causby Et Ux.*, 328 U.S. 256, 259 (1946).

The Causby's land was not outrightly taken from them, only the value was diminished; yet the Supreme Court said that a "constitutional taking" had occurred, and the Causby's were entitled to compensation.

In the current Covid-19 hysteria, businesses are not taken, but millions of peoples' lives and property have been diminished by the actions of government actors and the use of emergency powers during a non-emergency. It is my opinion, because these "takings" occurred as a result of emergency

measures imposed without a real emergency, that the government actors who created this situation are personally liable for the effects.

Oh, we have a lot of people proclaiming there is an emergency. But where is the beef? All of this Covid-19 hype constitutes "form over substance." The virus is real (I know, I got sick from it), but the response is a hoax.

The governor of Idaho must agree as he suddenly thinks that Idaho needs a law on the books giving Idaho government officials immunity from their "Covid-19 actions." He just called a special session of the Legislature in the hopes the Legislature will pass such a bill.

However, the whole idea of sovereign immunity should be foreign to our American system as it is based on the concept that "the King can do no wrong." In the old European system, the one we fought a war to throw off, the King claimed he was God's representative to the people and that he had a "divine right to rule." Gosh, who could argue with the king when he spoke for God?

In his well written article entitled "Against Sovereign Immunity," Erwin Chemerinsky's first sentence in this article states "Sovereign immunity is an anachronistic relic and the entire doctrine should be eliminated from American law."

Chemerinsky goes on to say,

"Sovereign immunity is inconsistent with a central maxim of American government: no one, not even the government, is above the law. The effect of sovereign immunity is to place the government above the law and to ensure that some individuals who have suffered egregious harms will be unable to receive redress for their injuries." *Against Sovereign Immunity*, 53 Stanford Law Review 1201, 1202 (2001).

The affect of providing any government actor immunity from suit is to deny the due process of law provision of the

constitution where the Fifth Amendment states that "No person... be deprived of life, liberty or property, without due process of law." But it also denies the supremacy clause of the Constitution when we raise the English common law relic of sovereign immunity above the whole of the Constitution thereby violating constitutional provisions.

Appropriately, Chemerinsky also quotes founding father James Madison, "If people were angels, there would be no need for a Constitution, but there would be no need for a government either." The Federalist No. 51 at 322 (James Madison)(Clinton Rossiter ed., 1961).

When the Covid-19 immunity bill is presented to the special session of the Idaho Legislature, I hope all 105 legislators will not only vote "NO" but will also vote "HELL NO!"

I naively thought the Covid-19 non-emergency would eventually pass, and life would get back to normal. After all, we are in the summer months, and the average person is healthier this time of year. But it hasn't. Instead, more Covid-19 restrictions on our daily life are popping up here and there like a wack-a-mole game.

If our county commissioners, our city council members, our health agency board members and the myriad of other government actors continue to ignore the reality that the Covid-19 numbers of hospitalized and deaths are no more significant than an average flu season, We the People need to organize in our Corporate and Sovereign capacity as the Militia. Since day one of this Republic, each and every adult Citizen, who is eligible to vote, is a member of the unorganized Militia. We the People are the Sovereigns. The number one responsibility of the Militia is to enforce the Laws of the Union. And we have seen in this article, how the Laws of the Union are being violated every minute of every day by those who took an oath to defend the Constitution.

For a detailed discussion as to how We the People can lawfully organize into Militia units, please see Dr. Edwin Vieira's books entitled *Constitutional Homeland Security; The Sword and Sovereignty: The Constitutional Principles of the "Militia of the Several States"*; and *Thirteen Words* (The Second Amendment). Dr. Edwin Vieira has a PhD in Chemistry from Harvard University, is a Harvard Law School graduate and today believes that organizing the unorganized Militia is our path back to constitutional government.

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