

EDITORIAL

Making progress

Oregon Gov. Kate Brown is considering easing some of the restrictions in her March 17 executive order, at least in rural counties. Officials in Baker County and other counties that have had no confirmed cases of coronavirus, or few cases, are working on proposals to submit to the governor that could lead to restaurants and other businesses reopening, albeit with social distancing requirements remaining. The county officials are doing their jobs, to put it another way.

The public discussion on this issue seems increasingly to have devolved into a simplistic argument that’s reminiscent of the partisan bickering over a political campaign. One side insists that government restrictions intended to curb the spread of the virus are draconian and should be rescinded to spare the decimated economy from further damage.

The other side retorts that people complaining about business closures care more about jobs than lives, and that their reckless recommendations would worsen the pandemic.

But Brown’s draft framework for “Reopening Oregon,” as her office has dubbed the project, reflects the more moderate, if also more complex, reality — that it’s reasonable to prepare to ease restrictions in places where some of the worst fears about the virus’ effects have not come to pass, but only after ensuring that precautions will continue that will keep the risk low of the virus gaining a foothold where it has yet to do so.

In Baker County, in common with much of Oregon, the potential for a flood of infected patients to overwhelm hospitals has not proved out. Quite the opposite, in fact — hospitals have had so little business that many, including Saint Alphonsus in Baker City, have had to lay off employees.

Given the circumstances, Brown has an obligation to strive to ensure that restrictions are not more stringent than is justified to meet the overriding goal of protecting the public from the virus.

And now that she’s broached that subject, officials in Baker County and other counties where the pandemic’s economic effects have been much more severe than the medical effects would be derelict in their duty if they didn’t work with the governor to put in place the safeguards that make it possible to reopen some businesses and still keep the virus at bay. To that end, commissioners had a phone conference with Brown Monday afternoon to discuss those safeguards.

The governor’s office hasn’t given specific details, but the draft framework — it’s not a final document — lists some general requirements counties will have to meet before restrictions are softened. These include increased testing for the virus, a sufficient inventory of personal protective equipment, and a robust campaign to remind residents about the importance of social distancing and sanitation.

Baker County Commissioner Mark Bennett said Tuesday he’s confident the county can meet those requirements, and submit a proposal to the governor this week. If that plan is as thorough as Bennett expects it will be, it’s reasonable to expect a decision from Brown within a couple weeks.

— Jayson Jacoby, Baker City Herald editor

Letters to the editor

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- Letters are limited to 350 words; longer letters will be edited for length. Writers are limited to one letter every 15 days.
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Mail: To the Editor, Baker City Herald, P.O. Box 807, Baker City, OR 97814
Email: news@bakercityherald.com



Ending non-unanimous verdicts

Most Americans — including those who have seen the film “12 Angry Men” — probably assumed that the U.S. Constitution requires that juries be unanimous in order to convict someone of a major crime. But that wasn’t true until Monday, when the U.S. Supreme Court, reversing a shaky precedent, ruled that unanimity is required in state as well as federal courts.

The court ruled in favor of Evangelisto Ramos, who was convicted in 2016 by a 10-2 vote in the murder of a woman whose body was found in a New Orleans trash can. Louisiana now requires unanimous jury verdicts for serious crimes, but Oregon continues to allow non-unanimous verdicts in felony cases. After Monday’s decision, no state will be able to convict people of serious crimes by less than unanimous juries.

Given that only one state now allows non-unanimous verdicts, the court’s decision might not seem all that momentous.

That’s wrong for two reasons. First, had the court ruled the other way, “law and order” advocates in other states might have lobbied their legislatures to allow non-unanimous verdicts. There are precedents for such a chain reaction, notably the move by several states to weaken the insanity defense after a jury found John W. Hinckley Jr., who attempted to assassinate President Ronald Reagan, not guilty by reason of insanity. (Alas, the Supreme Court ruled last month that the traditional insanity defense was not required by the Constitution.)

MICHAEL MCGOUGH

Juries may reach a verdict more quickly if they needn’t be unanimous, but (as “12 Angry Men” dramatizes) the requirement that all jurors agree makes it likelier that juries will deliberate carefully and explore all possibilities. Unanimity promotes impartiality.

Second, this ruling is important because it continued a trend in which the court has held that protections in the Bill of Rights that originally applied only to the federal government also apply to actions by state governments.

Legal nerds know that this process is called “incorporation”: a reference to the court’s holding that some, but not all, rights specified in the Bill of Rights are incorporated against the states by the 14th Amendment, which was added to the Constitution after the Civil War. That amendment mandates that people not be deprived of liberty without due process of law and also refers to the “privileges or immunities” of citizenship.

It long has been understood that the First Amendment’s guarantees of free speech and freedom of religion as well as the 4th Amendment’s ban on unreasonable searches and seizures are incorporated against the states. But it was only in 2010 that the court ruled that the states were bound by the court’s (then recent) interpretation of the Second Amendment’s right to

keep and bear arms. Monday’s ruling concerned another provision of the Bill of Rights, the Sixth Amendment. It guarantees a criminal defendant the right to trial by an impartial jury, but doesn’t specify that the verdict must be unanimous. Writing for the court, Justice Neil Gorsuch said that the unanimity requirement that he said lay behind the history of the Sixth Amendment must also apply to state trials. The decision overrules a shaky 1972 precedent in which a fractured court seemed to say that unanimous juries were required in federal trials but not state trials.

This decision doesn’t mean the end of so-called “selective incorporation” in which some of the Bill of Rights (or judicial interpretations of them) don’t apply to the states. For example, the Seventh Amendment’s guarantee of a jury trial in civil cases hasn’t been imposed on the states.

But the court now has said that most of the significant protections of the Bill of Rights — the ones dealing with personal liberty — do apply to the states. That’s not just a legal nicety. At a time when the relationship between the states and the federal government is being newly debated — for example, in relation to immigration — it’s important that there is no daylight between the two when it comes to fundamental rights. Where basic rights are concerned, this must be one country.

Michael McGough is the Los Angeles Times’ senior editorial writer, based in Washington, D.C.

Our president can’t be trusted

Like many of you, I am reeling from the events of the last two-plus months and the sudden onslaught of this horrible COVID-19. Overnight our lives have been turned upside down. Everything that was normal is now dangerous or forbidden. No work. No shopping. No sporting events. No gatherings, etc., ad nauseam. We have become individual islands of self-preservation.

We have always had the comfort of knowing our knowledgeable, trusted, and caring leaders would do what was right for us and our country, from department leaders on up to the president. They were dedicated to protect and preserve. During the Obama administration, as an example, the dreaded Ebola virus was stopped in its tracks thanks to competent leadership that acted quickly, listened to the experts, took their advice and stopped it on the shores of Africa with only one case in the U.S. One. That is a luxury we are no longer afforded.

This begs the question of why not? Why don’t we have the support and backing from our national leaders? Not only do we not have their support, but it appears, in my opinion, that our president in fact is interfering with our abilities to save ourselves as individual states. Why?

CINDY BIRKO

I reflect on recent events concerning the pandemic we all are facing and the fact that 18 tons of our medical supplies were sold to a foreign country as our well-informed president denied the severity of this virus and downplayed it in front of all of us. Why did he do that? He knew. He knew it was coming and how dangerous it would be. He had been informed at least two months prior, but threw us all under the bus anyway. Why? And now, as thousands of us die, it is reported that medical supplies ordered by individual states and hospitals are being pirated by the Trump administration while en route to these places and then auctioned back to them at hugely inflated prices, effectively slowing down or eliminating life-saving processes. Why?

Reports of Trump’s mental state and personality have been frequent and unflattering. Taking into account pieces of various testimonials, especially those from hundreds and hundreds of psychiatrists to date, a common denominator is beginning to appear and has been professionally stated. It is a frightening assessment. And that is that Trump’s well-documented narcissism is, in fact, in the arena of sadism.

Much like that of unpopular despots from around the world at various times in our history. Hitler, Mussolini, Kim Jong Un, Stalin, are purported to share this characteristic. Is it possible that given Trump’s sadistic inclinations that he is enjoying this power trip of knowing that he holds in his very hands, life and death over millions? That he is deliberately interfering with America’s recovery in order to feed his insatiable desire for power and lust? That there is some kind of sadistic pleasure, a rush bordering on erotica, if you will, at hearing of the daily death counts? And that that is the driving force behind his unconscionable decisions to endanger an entire nation? In my opinion, this is not rocket science. We all are indeed in real danger, mortal danger. Our republic is being dismantled piece by piece; environmental laws are being gutted; the rich are getting richer, the poor are getting poorer, and now, many of us are literally dying. How many will pass before this curse is over? It didn’t have to be. What will YOU tell your grandchildren?

Cindy Birko lives near Baker City.