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Balancing the needs in Maryland

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Walter Olson, a senior fellow at the Cato Institute's Robert A. Levy Center for Constitutional Studies, made an interesting comment during an interview earlier this week.

Olson, a New Market resident, told our reporter Steve Bohnel that there is often a "clash of rights" in situations like we find ourselves with the COVID-19 pandemic. In Olson's opinion, it's clear that, despite a claim by Del. Dan Cox, Gov. Larry Hogan has the authority to take steps such as requiring some businesses to close and having everyone wear a facial covering while going to the store.

"You can make a moral argument, I ought to have these rights, the government ought to recognize these rights," Olson said. "Go ahead and make that argument. What you can't argue is the constitution has been violated, you can't argue that the founders would be turning over in their graves if they knew what was happening."

So, for the moment, let's put aside the weak constitutional argument. Most, even President Trump reluctantly, have conceded that states can decide these matters and, at least in Maryland's case, Title 14 of the state's Constitution gives the governor broad power during emergencies such as a pandemic.

Instead, let's consider the first part of Olson's comment of making the "moral argument." This is the tricky part, not only for all of us to agree on but one for Hogan to balance.

There is logic to the reasoning that we should be looking for ways to reopen parts of society, and the economy in particular. While there are many of us able to work from home, there are scores more who can't. When unemployment figures are released later today, we expect that many more will be added to the millions who were out of work when stats were released April 16.

So, in terms of the recent protests in Annapolis to reopen business, we can appreciate some of the sentiment expressed.

But that moral argument has two sides.

There is still overwhelming evidence that community spread — the transmission of the coronavirus through direct contact with others — is now a leading cause for transmission of the

disease. There's also significant evidence that social distancing and the wearing of masks or other facial protection is slowing down the impact of the virus. People are still dying every day, though not at the rate we once thought possible a few weeks ago before we put some of these safety measures in place.

Morally, protecting those from the virus has to be, as it has been, the governor's top job.

Dr. Anthony Fauci, the nation's top infectious disease expert, was warning protesters as recently as Tuesday that reopening society too soon could cause even more harm. His comments came the same day Robert Redfield, director of the Centers for Disease and Prevention (CDC) told the Washington Post that a second, and even more devastating, wave of the coronavirus could come this fall.

There is potentially a middle ground, however, one that takes into account the moral arguments of the medical experts and the business community. We're confident that we're going to get to that point soon, but now's not that time. We can't get to that middle ground until we've hit some safety milestones.

Hogan has said that he's open to a gradual phase-in but only after the number of hospitalizations, ICU patients and deaths related to the virus have continually declined over a two-week period. It's a far more reasonable approach than what's happening in Georgia, for instance, where deaths continue to mount and yet its governor is going ahead with plans for a more aggressive opening starting Friday. People from both sides of the political aisle are critical.

Hogan is expected to release his roadmap to reopening this Friday. We expect the governor to keep his focus on the health and safety of Marylanders while acknowledging that rebooting the economy needs to follow closely.

It continues to be a balancing act for Hogan and we're not envious of the job ahead of him. But, so far we think he's doing fine.