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Subject: If the President doesn't want to sign another bad omnibus bill, he must act now

A September continuing resolution to a lame duck session almost guarantees that the President's priorities will lose even if the GOP maintains control of Congress

The Power Beat Daily

All The News That Doesn't Fit the Page

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Another overbearing Obama rule bites the dust

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Marc Thiessen: There's nothing wrong with a census question about citizenship

No, it's not. There is nothing wrong with asking about citizenship. Canada asks a citizenship question on its census. So do Australia and many other U.S. allies. The U.S. government asked about citizenship for 130 years — from 1820 to 1950 — as part of the decennial "short form" census and

continued to do so in the “long form” survey — distributed to 1 in 6 people — through 2000, when the long form was replaced by the annual American Community Survey. The ACS goes to about 2.6 percent of the population each year and asks about citizenship to this day.

If the President doesn't want to sign another bad omnibus bill, he must act now



By Rick Manning

President Trump declared he would never sign another stinker government funding bill like the omnibus again, yet many in Washington, D.C. expect the legislative funding game to be played exactly the same way this upcoming September. It doesn't have to be, and if the GOP wants its majority to survive, they better make certain it isn't.

The President has to take the lead in this effort to force Congress to return to regular order on the twelve appropriations bills that should go to his desk between now and Sept. 30.

The first step is to demand that he receive the Defense appropriations bill on his desk no later than Memorial Day. Seasoned D.C. insiders will cluck their teeth noting that the Senate won't pass an individual Defense appropriations bill because it is their big bargaining chip during the inevitable massive spending bill fight. That is interesting, but not relevant when vulnerable Democrat Senator after Senator is being politically whipped by their constituents to end an actual, real-life filibuster against the passage of the bill. With the President using the bully pulpit to excoriate them, they will cave-in to the pressure. But only if they are forced to actually filibuster the bill and hold the Senate floor, as opposed to the current courtesy paper filibuster.

If, as is likely, there are differences of opinion between the House and Senate about what should be in the appropriations bill, they resolve the differences, the House passes the amended bill, and the Senate Democrats have a choice on whether to try to hold the floor again.

After a few of these forced, real filibusters, the Democrats will be much less likely to fight everything, but instead will negotiate some changes in exchange for their votes. That is regular order, rather than the current hostage taking which is the current government funding process.

But to break the stranglehold of failure that engulfs the legislative process, President Trump needs to engage in both the timing of when each bill comes up, and making certain that the funding bills contain his priorities. He cannot afford to find himself doing a photo-op in front of “big, beautiful walls” only to discover that funding for those walls has been explicitly prohibited in the funding bill that he is promoting.

The previous administration was expert at forcing GOP leaders in the House and Senate to accept its funding priorities and stripping out riders and defunds that were counter to their policy wishes. President Trump can and should be even more effective with ostensible support from majorities in both houses of Congress. The White House just needs a war room which combines legislative calendar and messaging to bring the full weight of the executive branch to bear.

While the above description is simplistic in that achieving the goal of passing individual appropriations bills and avoiding a continuing resolution to extend funding of the government into the lame duck is much harder than described. The truth is that President Trump will likely not have a better Congress to work within 2019, so this may be his last, best opportunity to achieve his funding priorities until his second term.

The White House needs to recognize this right now, and begin a focused battle plan to force their priorities through Congress in September. A September continuing resolution to a lame duck session almost guarantees that the President’s priorities will lose even if the GOP maintains control of Congress.

The best answer is to avoid this problem by putting every ounce of energy into funding those priorities during the spring and summer so a late September choice between a bad, bad bill and shutting down the government is avoided.

Rick Manning is the President of Americans for Limited Government.

Another overbearing Obama regulation, the fiduciary rule, bites the dust

By Printus LeBlanc

As many have noticed the Obama administration was very much in favor of regulations for the sake of regulations. The administration tried to regulate everything from the air in our lungs and food in our stomach, to the climate controlled by the Sun. But earlier this month, the Fifth Circuit Court of Appeals struck another blow against the abusive administrative state imposed on the American People by the previous administration and returned some sanity to the U.S.

Spurred on by the financial crisis the Department of Labor (DOL) attempted to regulate the part of the financial industry by proposing a rule in 2010. The department already had authority over employer-sponsored retirement plans under the Employee Retirement Income Security Act of 1974 (ERISA). The authority did not include Individual Retirement Accounts (IRA), which are already regulated by the IRS and SEC. The backlash caused the administration to withdraw the rule and try again five years later.

In 2015, President Obama warned the financial industry change was coming, and in April of 2016, the new rule came down under DOL. The new rule was designed to get away from the commission-based system financial services industry. The then Assistant Secretary for Employee Benefits Security Phyllis Borzi was the main driver for the rule. A quick glance of a [Borzi speech](#) and it becomes clear, the former Assistant Secretary does not like the financial services industry.

The rule would be known as the DOL Fiduciary Rule or the Best Interests Rule. The main thrust of the rule raised the fiduciary standard of brokers to Registered Investment Advisors. Brokers typically were paid on commission of sales, and the DOL believed this meant they could not be objective when giving advice. DOL believed taking commissions out of the equation would result in better financial advice. It became apparent quickly this was not going to be the case.

The DOL rule would have ended up hurting small dollar retirement savers. If someone saves a couple hundred a month for their retirement, where is the incentive for an investment firm to advise them? At the end of the year, that person or couple was able to save \$1,500-\$3,000, but the investment firm has a much greater liability according to the rule. The investor could come after the investment firm years later claiming the firm made the wrong investments and sue. What incentive is there to take on small dollar clients that can sue for more than they invest? None. This is not hypothetical; this is reality.

The [Chamber of Commerce conducted a survey](#) of investment firms and found some startling statistics:

- 92 percent of firms surveyed say that the rule could limit or restrict investment products for their customers, which could ultimately affect some 11 million households;
- Up to 7 million individual retirement account owners could lose access to investment advice altogether;
- A survey of insurance service providers shows 70 percent already have or are considering exiting the market for small balance IRAs and small plans, and half are preparing to raise minimum account requirements for IRAs;
- A survey of advisors finds 71 percent will stop providing advice to at least some of their current small accounts due to the risk and increased costs of the rule;
- Other surveys found that 35 percent of advisors will stop serving accounts under \$25,000, and 25 percent will raise their client minimum account thresholds; and
- One large mutual fund provider reports that its number of orphaned accounts nearly doubled in the first three months of 2017, and that the average account balance in these orphan accounts is just \$21,000. Further, it projects that ultimately 16 percent of the accounts it services will be orphaned this year because of the fiduciary rule.

- Fortunately, thanks to the Fifth Circuit’s ruling, the rule is null and void, and investment firms need not worry. In a 2-1 decision, the court vacated the rule “in toto,” noting the DOL’s new definition of fiduciary was did not fit with the text of ERISA and the IRS code. The court also found the rule’s new definitions were unreasonable.

The Obama administration tried to literally regulate everything under the sun. This is a small victory for free market capitalism, but the fight is not over. The DOL has not shown it is going to fight the ruling, and it should not. All agencies across the federal government should continue to roll back abusive regulations, and Congress should act to ensure future abusive administrations cannot overregulate people’s lives. This is a two-front battle, the executive branch, and the legislative branch; Congress needs to step up.

Printus LeBlanc is a contributing editor at Americans for Limited Government.

THE HILL

David Raney: From ancient Athens to modern America: Thank the right to 'bear arms' for freedom

By David Raney

Former Supreme Court Justice John Paul Stevens’ recent opinion piece in the New York Times advocating the repeal of the Second Amendment appears to have surprised many, but it shouldn’t have. In 2008, while considering the *District of Columbia v. Heller* case, Stevens and three of his “progressive” colleagues on the United States Supreme Court attempted to effectively repeal the Second Amendment by judicial fiat. Their failure to do so was a victory for our republic and its inheritance of ordered liberty that predates the ancient societies of Athens and Rome.

Owning and bearing arms for a variety of legitimate purposes (such as collecting, hunting, and defense of self, family, and state) has been a vital part of the Western tradition for millennia and is our birthright as a free people. This right (or the lack thereof) has separated the free and the enslaved since before the rise of Athenian democracy.

The Greek philosopher Aristotle asserted that the private possession of arms was a right and duty of citizenship that secured the state against internal and external threats. Centuries later, the Roman statesman Cicero (whom our nation’s founders admired and emulated) argued that the use of arms for self-defense was part of a natural law that must be respected. He also adhered to the long-standing conviction that the use of private arms for the defense of the republic was an essential duty of Roman citizenship.

Our English forebears also understood well the link between the people’s possession of arms and liberty. In 1688, a coalition of forces loyal to the English Parliament and William of Orange removed James II from the throne in a relatively bloodless affair that became known as the “Glorious Revolution.” One of the major grievances the revolutionaries lodged against the king was that he disarmed many of his subjects. Indeed, Parliament insisted that, as a condition of assuming the throne, the new sovereigns — William and Mary — agree to a declaration of rights that, in part, protected fundamental liberties of the English people. One of the individual liberties enumerated in

the document, which became known as the English Bill of Rights, was that of possessing arms “for their defence.”

The English political philosopher John Locke published his “Second Treatise of Civil Government” in the wake of the Glorious Revolution. Locke argued that all men possess “natural rights” by virtue of their birth — the rights of life, liberty, and property (a trio that emerged, in slightly altered form, in our own Declaration of Independence).

Our nation’s founders (including those who proposed and approved the Bill of Rights) understood that for these natural rights to mean anything, people had to possess the capacity to defend their lives, liberty, and property from offenders, both foreign and domestic. They further understood that the government frequently was unable to protect these rights adequately. Consequently, each individual was ultimately responsible for his own security, and firearms were considered a proper and effective means of attaining that end.

As the majority in the Heller decision pointed out, those who crafted the Second Amendment intended for it to protect a pre-existing, individual right. Indeed, when James Madison, the “Father of the Constitution,” introduced the Bill of Rights in the House of Representatives, he made clear his understanding that the guarantees contained therein protected individual rights.

Notably, when the Senate considered the provision that became the Second Amendment, its members defeated a proposal that would have limited the right to keep and bear arms to “the common defense.” In other words, the Senate deliberately chose not to restrict this right to service in an organized body such as a militia.

Those who suggest that the Second Amendment is “outdated” or “irrelevant” today are often poor students of human nature and history. Many notorious attempts to restrict or ban firearms have been directed at the most vulnerable members of our society, and this trend continues today.

Shortly after the Civil War, many Southern states enacted so-called “black codes” that prohibited freedmen from keeping or bearing arms — a clear attempt to keep former slaves in a state of virtual slavery. In the early 20th century, states such as New York and Michigan enacted schemes to require permits for the purchase of handguns under the guise of keeping such firearms out of the hands of so-called undesirables. To many who supported these laws, “undesirables” included blacks and recent immigrants.

Today, proposals to bar young adults from purchasing firearms of any kind threaten to deprive this segment of our population of the natural right of self-preservation.

Ultimately, the final and most effective barrier between the citizens of our republic and any number of gun control schemes that would rob them of their God-given natural rights is the Second Amendment. Any attempts by John Paul Stevens or anyone else to repeal it should be resisted with a civil but firm response reminiscent of the legendary John Paul Jones: “I have not yet begun to fight!”

David A. Raney is professor of history at Hillsdale College where he holds the John Anthony Halter Chair in American History, the Constitution, and the Second Amendment.



ALG Editor's Note: In the following op-ed in the Washington Post, Marc Thiessen discusses the controversy and why it should not be a controversy to ask about citizenship on the census:

The Washington Post

There's nothing wrong with a census question about citizenship

By Marc A. Thiessen

The Trump administration is being sued over its plans to include a question about citizenship in the 2020 Census, which California Attorney General Xavier Becerra (D) says "is not just a bad idea — it is illegal."

No, it's not. There is nothing wrong with asking about citizenship. Canada asks a citizenship question on its census. So do Australia and many other U.S. allies. The U.S. government asked about citizenship for 130 years — from 1820 to 1950 — as part of the decennial "short form" census and continued to do so in the "long form" survey — distributed to 1 in 6 people — through 2000, when the long form was replaced by the annual American Community Survey. The ACS goes to about 2.6 percent of the population each year and asks about citizenship to this day.

So why are many on the left up in arms over a question that should be relatively uncontroversial? Answer: Money and power. Democrats are worried that adding a citizenship question will dampen participation in the census by illegal immigrants, reducing the total population count in the Democratic-leaning metropolitan areas where illegal immigrants are largely concentrated. Because census data is used to determine the distribution of federal funds, that could decrease the cities' share of more than \$675 billion a year in federal funding. And because census data is also used to create and apportion congressional seats, Democrats fear that if illegal immigrants don't participate it could shift power from Democratic cities to rural communities, which tend to vote Republican.

At least, that's Democrats' theory. But there is no evidence that a citizenship question would dramatically impact census participation. The census is not like a telemarketing survey where people have the option of adding their names to a "do not call" list. Everyone is required by law to respond. If a household does not fill out the census form, then census workers visit that household to gather census data. If they still cannot get a household to cooperate, nonrespondents can be fined or prosecuted — though in practice they rarely are. Usually, the Census Bureau instead asks neighbors about the household in order to get as much accurate information as possible. This may add costs to the census, but it is not likely to produce inaccurate data.

Moreover, if asking about citizenship is a deterrent to participation by illegal immigrants, then what about the existing census question that asks whether respondents are "of Hispanic, Latino, or Spanish origin" — the only ethnic group specifically called out? Respondents are required by law to tell the government whether they are of Mexican, Puerto Rican, Cuban or other Hispanic origin, which they are required to list ("print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on"). If that does not deter the participation of many illegal immigrants, how would a question on citizenship?

There is no good reason not to answer the census, whether one is here legally or illegally. As the Census Bureau points out, "It is against the law for any Census Bureau employee to disclose or publish any census or survey information that identifies an individual or business . . . the FBI and

other government entities do not have the legal right to access this information.” Furthermore, the proposed question is about citizenship, not legal status. This question should not be a deterrent to participation for anyone.

But let’s say for the sake of argument that some illegal immigrants do decide not to participate in the 2020 Census. So what? Illegal immigrants are here *illegally*. If they choose to violate U.S. law yet again by refusing to participate in the census because of a perfectly legitimate question about citizenship, that’s not the U.S. government’s fault.

[Click here for the full op-ed.](#)

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