

TEA PARTY PATRIOTS ACTION



WEEKLY REPORT FROM WASHINGTON

October 12, 2020

CALENDAR:

The House and Senate have both adjourned. The House will likely not come back until after the election, while the Senate will come back to vote on the confirmation of Amy Coney Barrett to the Supreme Court.

TRANSPARENCY 2020:

The Big Tech giants have made clear that they will not allow conservatives to share information about legal challenges, disputed ballots, election mayhem, or anything else that might complicate what they expect will be a transfer of power from Donald Trump to Joe Biden et. al. Facebook, Instagram, Twitter, Google, and YouTube will take down messaging they find to be in violation of their so-called “community standards,” and will remove accounts outright if they so desire.

One social media platform, however, will not engage in such thought policing. Parler – which, for those of you who haven’t heard of it, looks and feels most like Twitter – has announced its “Election Transparency Pledge.” The platform says it will “parley publicly available information on election rules and procedures, statements by candidates, parties, and watchdogs, and will echo individual parleys with the #transparency2020 hashtag that receive a high level of engagement from our community.”

For those of you who are interested, I’ve included some links in the Suggested Reading, so you can get more information.

DEBATES:

On Thursday morning, without having bothered to even inform the two presidential campaigns, let alone discuss it with them, the Commission on Presidential Debates declared that, because of President Trump’s coronavirus diagnosis, the next presidential debate, scheduled for Thursday, October 15, would be switched from its planned townhall format, and would instead be a virtual debate. Within less than an hour, President Trump announced he would not

participate in such an exercise. Over the course of the next 36 hours, discussions went back and forth, before the commission announced its decision simply to cancel the debate outright.

What the Commission has done here is irrational, and can only be explained as the result of a conscious decision to provide cover for the Biden campaign. The decision-makers at the CPD had no reason to believe that President Trump's coronavirus would not have run its course by next Thursday. (Parenthetically, the president's doctor released a memo Saturday evening saying that President Trump was "no longer considered a transmission risk to others.") Even a man as much a part of the Washington Establishment as former Senate Majority Leader Bob Dole recognized the problem, and commented that he knew all of the Republican members of the Commission, and it troubled him that none of them were supporters of President Trump.

As it stands now, there will be no townhall format presidential debate. So far, the Commission has said nothing about the scheduled final debate, set to take place on Thursday, October 22 at Belmont University in Nashville. The moderator for that debate will be Kristen Welker of NBC News. She's the network's White House correspondent and co-anchor of "Weekend Today."

INVESTIGATING THE INVESTIGATORS:

Attorney General Bill Barr has been telling the White House and senior Republicans that they should not expect further indictments or the release of a serious narrative from Connecticut U.S. Attorney John Durham before the election. Durham has for more than a year been tasked with investigating the origins of the FBI's "Crossfire Hurricane" investigation of President Trump and his campaign.

President Trump is not happy with this turn of events. During a FOX Business News interview on Thursday, he declared in no uncertain terms that he believes Barr has "got all the information he needs" to file charges, but he insists on getting what the president called "more, more, more." "To be honest," the president said, "Bill Barr is going to go down as either the greatest attorney general in the history of the country, or he's going to go down as, you know, a very sad situation."

CORONAVIRUS RELIEF:

Is the deal on, or off? Even those who have been following the ongoing negotiations over the next coronavirus relief bill cannot say for sure.

On Tuesday morning, back at the White House after spending the weekend at Walter Reed Army Medical Center, President Trump ordered his negotiators to cease and desist, and to end the negotiations with Speaker Pelosi. Political Washington erupted. Republican lawmakers were outraged, and Democrats were gleeful. The talks – which no one had expected to come to fruition, but which everyone knew were important to continue, for political reasons – were over, and at Trump's demand. It looked like he had wrapped up an early Christmas present for Speaker Pelosi and had it hand-delivered to her.

By Tuesday evening, he had realized that he could not allow himself to be portrayed as having pulled out of the talks unilaterally, so he began tweeting demands for stand-alone bills to provide aid to the airline industry, to provide \$1,200 checks to individuals, and to provide more small business loans. Speaker Pelosi said she would love to support those stand-alone bills – but only as part of a larger agreement on a comprehensive coronavirus relief bill. No comprehensive bill, she said, no smaller stand-alone bills.

By Friday afternoon, the White House had come full circle – the negotiations were back on for a full and comprehensive coronavirus relief bill, and the Trump Administration had caved a bit. Treasury Secretary Steven Mnuchin raised the ante by \$200 billion when he delivered a \$1.8 trillion spending proposal in a 30-minute phone call with the Speaker.

Even as his Treasury Secretary was talking with the Speaker, President Trump was raising the goalposts further. During a two-hour appearance on the Rush Limbaugh radio show Friday afternoon, President Trump said, “I would like to see a bigger stimulus package than, frankly, either the Democrats or the Republicans are offering. I’m going in the exact opposite direction now. OK?”

Saturday, senior Administration officials held a conference call with GOP senators. The Republicans were not happy, and they made their displeasure evident. In response, White House Chief of Staff Mark Meadows told the senators, “You all will have to come to my funeral” when he delivered the news to the president.

But Saturday afternoon, Speaker Pelosi delivered a letter to her House Democrat colleagues explaining why she was rejecting the offer. “The Trump proposal is insufficient,” she wrote.

Sunday morning, she delivered another letter, rejecting even more strongly the Trump offer. In this new letter, she said the administration’s policies on testing and tracing are inadequate.

Time is running out. We may end up with a deal, but no law – that is, it’s quite possible that Trump and Pelosi could come to an agreement, but there will not be enough time to pass it through both houses of Congress before the election. Or we may end up with no deal before the election.

Stay tuned.

25TH AMENDMENT:

On Friday, Speaker Pelosi and Democrat Jamie Raskin of MD, a former professor of constitutional law, introduced H.R. 8548, “to establish the Commission on Presidential Capacity to Discharge the Powers and Duties of the Office, and for other purposes.” There are 38 original cosponsors.

The bill would create a commission to gauge a president’s capacity to perform the duties of the job, and creates a mechanism by which a president could be removed from office. The commission is based on the language of section 4 of the 25th Amendment to the Constitution,

which reads, “Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.”

So this legislation seeks to fill in the spot created by that language that reads, “or of such other body as Congress may by law provide,” because, guess what? Congress has never created such a body.

The commission would be composed of 17 members, and would be tasked with determining the president’s fitness for office. The 17 members would be four physicians, four psychiatrists, and eight former high-ranking executive officials to be chosen from a pool composed of former presidents, former vice presidents, former surgeon generals and former Secretaries of State, Treasury, Defense, and Attorneys General. The bipartisan leaders of both chambers of Congress would choose those 16 members, and then those 16 would choose the 17th member.

This bill is going absolutely nowhere in the current Congress. Even if it passed the House, it would be dead on arrival in the Senate. And President Trump would certainly veto it if it somehow, miraculously, made it to his desk.

But think of what might happen if the Democrats were to win the White House and recapture the Senate. They could pass this bill in the early weeks of the 117th Congress, and then they’d be all set to use it against President Biden. Some have suggested that’s actually the real goal of this legislation – to make possible a constitutional coup to install Kamala Harris as President whether Joe Biden is ready to go on his own terms or not.

COURT PACKING:

First off, let’s get something straight. Despite what the Democrats are trying to do now – to wit, change the understood definition of “court packing” so they can argue that it is Republicans who are engaging in court packing – the term has a generally understood definition, and it means this: enlarging the number of justices that sit on the Supreme Court so as to dilute the influence of the justices they don’t like – you know, Clarence Scallito. A liberal president would “pack” the Court by appointing new liberal judges who can then make law from the bench in areas that liberals cannot get through a legislature.

Of the eight justices now sitting on the Supreme Court, Republican presidents appointed five. They are Chief Justice Roberts, and Justices Thomas, Alito, Gorsuch, and Kavanaugh. Democrat presidents appointed the three remaining justices – Justices Breyer, Kagan, and Sotomayor.

Assuming current Trump nominee Judge Amy Coney Barrett is confirmed, that would make the balance on the Court 6-3.

Depending on which legal scholar you believe, that would make the Supreme Court a clearly conservative-heavy court for the first time since the 1950s, or the first time since the 1930s.

Liberals and Democrats are aghast. They have relied on the court for decades to make law from the bench that they cannot get through a legislature because it's so out of touch with our fundamental values.

So their solution is to "pack" the Court, by adding new liberal justices. All it would take is a simple piece of legislation that amends the Judiciary Act of 1869, the law that's been on the books for more than 150 years, which sets the number of justices of the Supreme Court at, and I quote, "the Chief Justice of the United States and eight associate justices, any six of which shall constitute a quorum." And the amendment could be simple – all it would have to do is strike the word "eight," and replace it with, say, "twelve." If the Court were expanded to 13 justices, that would create four new openings that could then be filled by, say, a President Biden. Take the three justices already appointed by Democrat presidents previously, add four new justices nominated by President Biden, and, voila! Now you've got a Supreme Court that's "balanced" with seven justices appointed by Democrats and six by Republicans.

This is a terrible idea. In fact, it's so bad that in the 1930s, when the Supreme Court struck down as unconstitutional some of the things Franklin Delano Roosevelt passed as part of his New Deal agenda, Roosevelt tried to pack the Court. He pushed a bill that would have added up to six new justices. At that time, Democrats controlled the Senate by a margin of 76-16. But even with a 60-vote margin in the Senate, he couldn't get it through, because even party loyalty has its limits.

Democrats have been talking about this for more than a year. Kamala Harris said she was open to the idea a year ago, when she was still running for the Democrat nomination for president. In the wake of the passing of Justice Ruth Bader Ginsburg, Democrats and liberals are talking openly about packing the Court with new, additional seats.

But Biden and Harris know this idea is not popular with the general public. In fact, changing the rules like this is so unpopular with the general public that I think the election could turn on this hinge, if this could be made into the voting question that voters are asking themselves as they make their voting decision. Biden and Harris are so worried about this idea that they have made the decision not to answer questions about it.

This is not playing out well. Biden would not answer a question about it in the first debate with Trump. Harris would not answer Pence's questions about it, and he asked her directly twice. Now Biden has gone so far as to say, "No, they don't deserve" an answer when asked by a reporter a few days ago if he didn't think voters "deserved" an answer from him. He even parroted Nancy Pelosi when he said we would have to find out "after the election" what is his position on court packing.

What can we deduce from the refusal of the Biden-Harris ticket to tell us what is their position on court packing? Well, it seems reasonable to me that if they were opposed to it, they would simply say so. They'd be on the right side with the public. So if they opposed it, why

wouldn't they just say so? Not only would it not cost them anything, it would actually gain them something.

So there's got to be a reason they don't answer the question with a simple, "Of course we oppose that. Next question." And the only reason I can come up with is, they support the idea. They plan to pack the court if they get elected.

Stay tuned. This issue is not going away.

CORONAVIRUS RELIEF:

It's possible – POSSIBLE – that the President's coronavirus diagnosis may shake up the dynamics of the coronavirus relief fight. Speaker Pelosi wants a deal, but not below \$2.2 trillion. And remember, she was able to reduce the cost of the bill she passed in May from \$3.4 trillion to \$2.2 trillion not by throwing things out, but by shortening the length of the appropriation – for instance, if in the original bill she had an appropriation for \$120 billion for widgets for one year, in this updated version she just cut that appropriation from \$120 billion over 12 months to \$60 billion over six months. That is, she hasn't changed the RATE of spending, just the DURATION.

Treasury Secretary Mnuchin is now under increased pressure from inside the White House – from the president himself. On Saturday, President Trump tweeted, "OUR GREAT USA WANTS & NEEDS STIMULUS. WORK TOGETHER AND GET IT DONE. Thank you!"

Here's my fear – Mnuchin isn't a conservative. He wants to please his boss and bring home a deal. And with the president's coronavirus, Mnuchin may now be willing to tell Speaker Pelosi she can have her \$2.2 trillion. And then together they'll make an announcement, and they'll drop that on Senate Republicans. And we'll be in a world of hurt on the spending front.

Stay tuned.

SCOTUS:

Judge Amy Coney Barrett's confirmation hearings will take place this week. On Monday, senators and the nominee will make their opening statements. All day long. On Tuesday and Wednesday, senators will question the nominee, and then go into executive session. On Thursday, the committee will question panels of outside expert witnesses.

On Sunday, she released her four-page opening statement. You'll find her full opening statement in the Suggested Reading.

I'll give you just two excerpts I found important:

"Courts have a vital responsibility to enforce the rule of law, which is critical to a free society. But courts are not designed to solve every problem or right every wrong in our public life. The policy decisions and value judgments of government must be made by the political branches

elected by and accountable to the People. The public should not expect courts to do so, and courts should not try.”

Later, in her concluding paragraph, Judge Barrett says, “I believe in the power of prayer, and it has been uplifting to hear that so many people are praying for me.” Given what her opponents have made of her religion, I am glad to see she is not backing off.

TEA PARTY PATRIOTS/JENNY BETH MARTIN:

[CNS News: Jenny Beth martin: From Pandemic to Court Packing, When Will Harris' Non-Answers End?](#)

TRANSPARENCY 2020:

[Parler: Transparency 2020 Memo](#)

[FOXBiz: 2020 Election May Be messy but Shouldn't Be Censored by Big Tech](#)

DEBATES:

[Hill: Trump says He Will Not Participate In Virtual Presidential Debate](#)

[WaPo: Mike Pence's Debate Master Class](#)

[WE: Biden Campaign Calls To Reschedule Next Debate After Trump Refuses To Participate In Virtual Format](#)

[Hill: Bob Dole Claims No Republicans on Debate Commission Support Trump](#)

INVESTIGATING THE INVESTIGATORS:

[Axios: Barr Tells Republicans Durham Report Won't Be Ready By Election](#)

[AP: Trump: Justice Dept. Had 'Plenty of Time' for Durham Probe](#)

[WE: 'I'll Say It To His Face': Trump Fumes at Report on Barr Saying No John Durham Developments Before Election](#)

[NRO: No Durham Report or Indictments before Election Day](#)

CORONAVIRUS:

TAS: Follow the Science: Health Professional Say Lockdowns Were a Massive Mistake

FOX: COVID Lockdown Debate -- Dems Want Science, They Should Look at the Great Barrington Declaration

CORONAVIRUS RELIEF:

Hill: Republicans Frustrated By Trump's Messages On Covid-19 Aid

Politico: Trump Ends Coronavirus Relief Talks Amid Stalemate With Pelosi

NYT: Nancy Pelosi And Steve Mnuchin Are Still Trying To Reach A Stimulus Deal

Politico: Pelosi Signals No Relief For Airlines Without Bigger Covid Deal

NYT: Dead, Alive, On Life Support? Confusion Reigns On Stimulus As Talks Continue

Politico: White House Floats New Covid Deal to Pelosi as McConnell Remains Skeptical

Hill: Trump Proposes \$1.8T Coronavirus Relief Package

Hill: Senate Republicans Rip New White House Coronavirus Proposal

WE: 'Insufficient': Pelosi Rejects Latest White House Aid Offer

25TH AMENDMENT:

Hill: Democrats Unveil Bill Creating Panel To Gauge President's 'Capacity'

COURT PACKING:

WE: Public Opposes Packing Supreme Court With Liberal Judges, WE/YouGov Poll Finds

WaPo: Biden, Harris Won't Say Whether They Would 'Pack' The Court, Drawing Republican Criticism

NRO: Biden Says Voters 'Don't Deserve' To Know His Position on Court Packing

NRO: Court Packing Is a Preview of a Biden Administration's Problem with the Left

Politico: Biden Again Deflects on Court Packing Question

SCOTUS:

Morning Consult: Support Grows For Confirming Amy Coney Barrett To The Supreme Court

Judge Amy Coney Barrett: Opening Statement

MISCELLANEOUS:

AP News: St. Louis Couple Indicted For Waving Guns At Protesters

American Greatness: Trump, Atlas: Time To Face Down Coronavirus Fear

Politico: Court Reinstates Fraud Conviction For Hunter Biden Business Partner

WaPo: Citing 25th Amendment, Pelosi, Raskin Move To Create Panel That Could Rule On President's Fitness For Office