

National Labor Relations Board v. Noel Canning Corporation

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Respondent

Table of Cited Authorities

- Maryland's 1776 Constitution
- South Carolina Constitution
- The Constitution of the United States 2.2.2
- The Constitution of the United States 2.2.3
- The Constitution of the United States 1.5
- The Harlan Institute
- The Federalist no.67
- The Federalist no.77
- The D.C. Circuit of Appeals
- Letter from Alexander Hamilton to James McHenry (May 3,1799)
- Letter of Cato IV (July 3,1789)
- Letter from George Washington to William Drayton
- Edmund Randolph, Opinion on Recess Appointments for President Jefferson (July 7, 1792)
- Letter from Gouverneur Morris to W.H. Wells (February 2,1815)

Statement of Argument

As respondents we argue that the lower court's ruling is right so their decision should be upheld in the Supreme Court. We also affirm that the president cannot make an appointment during a recess that occurs within a session because that would violate checks and balances of the U.S. Constitution. The respondent affirms that the vacancy must occur during the recess and therefore that is the only time when the recess appointment clause should be used. The U.S. Constitution is the highest authority and we must not go against it. The constitution is one of the main reasons why government is the way it is today and it is also well accepted by the people. There are three reasons that support a narrow interpretation of the recess clause and they are that checks and balances should not be violated, the second states that the Senate Recess Appointment Clause is only temporary, and third argues that the meaning of the constitution cannot be changed. Thus the DC appeal court was correct in saying:

1. The President's recess-appointment power may not be exercised during a recess that occurs within a session of the Senate, and is instead limited to recesses that occur between enumerated sessions of the Senate.
2. The President's recess-appointment power may not be exercised to fill vacancies that exist during a recess, and is instead limited to vacancies that first arose during that recess.
3. The President's recess-appointment power may not be exercised when the Senate is convening every three days in pro forma sessions.

Argument