

Harlan Institute Essay – Mr. Gatto, AP Gov't Period 2

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In times of a Congressional Recess, the President can make a recess appointment without the approval of Congress. According to the Constitution, the President can “fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session. If a resignation occurs during a Congressional Recess, the President must be able to take swift action in order to fill the vacancy as quickly as possible. If President Obama needed Congressional approval for every appointment he made, then the pace of the government would be slower than it is right now. Not needing Congressional approval during a recess is beneficial because it keeps the government functioning.

In the 2013, Congress had been in recess for twenty three (23) weeks; the Senate was in recess for twelve (12) weeks. That is just short of a quarter of a year that the Senate is out of commission. Twelve weeks is a lot of time in which major events can happen that must be acted upon immediately. If something catastrophic happens, President Obama must be able to keep the government moving and if he needs approval to fill a vacancy that occurs during the Summer Recess in August, then the pace of the government will be slowed down dramatically. In a letter from President John Adams to Secretary of War James McHenry, Adams shows his support for making recess appointments. In the letter, Adams says, “Whenever there is an office that is not full, there is a vacancy, as I have ever understood the Constitution. To suppose that the President has power to appoint judges and ambassadors, in the recess of the Senate, and not officers of the army, is to me a distinction without difference...All such appointments, to be sure, must be nominated to the Senate at their next session, and subject to their ultimate decision.” The debate on whether or not the President can make recess appointments has been in discussion for most of the nations history.

“The President shall nominate, and, by and with the Advice and Consent of the Senate...” The Constitution states this in Article II, Section II, Clause II. On the issue of recess appointments, former Vice President George Clinton said that, “he [the President] will therefore be unsupported by proper information and advice, and will generally be directed by minions and favorites.” George Clinton thought that if the President made appointments without Congress’ approval, that he would pick ill-prepared people, and put friends into the office instead of people fit to do the job. The problem with waiting for Advice and Consent from the Senate is that if the President were to wait for the Senate to return to session, he could be waiting for a decent amount of time. The Senate takes the entire month of August off for a summer recess. If the President had to wait for a whole month to make a simple appointment, say a diplomatic appointment, he would have a vacant seat with no one doing that job, and wasting a vast amount of time.

The recess appointment is an important power that Presidents have the right to exercise. George Washington is famous for setting many precedents for future presidents, such as serving only two four-year terms and have a foreign policy of neutrality. The recess appointment was used by George Washington, he appointed judge John Rutledge as Chief Justice of the United States. Like George Washington, president Obama has also used his power to appoint senior federal officials while the senate was in recess. This power has always brought controversy and still does today. Many senators were outraged with the president’s decision, they believe that he is abusing his power as commander in chief. I believe that this controversy will never end no matter who the president; as history shows us whenever a president makes a recess appointment the opposite party believes that what he is doing is not right. Although the opposite party is never happy there is nothing they can do because this a power given to the president in Article II of the Constitution. The only way they will be able to successfully stop the president from making future recess appointments is if this power is removed from the constitution, but this will never happen because if the president does not have this power it creates the possibility of the government not being able to function if an appointment is needed but the senate is unavailable. Ultimately, this is an important power given to the president and it is his responsibility not to abuse it.

Work Cited

United States Constitution, Letter of Cato IV July 3, 1789, Letter from John Adams to James McHenry April 16, 1799, Washington Post