



CHANGE ON RECESS

“Unfortunately, When This White House Can't Win The Game, They Just Change The Rules, And America Loses”

BERWICK JUST THE LATEST OBAMA RECESS APPOINTMENT

“The President Announced The Recess Appointment Of The Following Nominees: Dr. Donald Berwick, Nominee For Administrator Of The Centers For Medicare And Medicaid Services, Department Of Health And Human Services” (Press Release, [The White House](#), 7/7/10)

Not First Time Obama Has Used Recess Appointment For Controversial Nominee. “Obama has used his Constitutional ability to make recess appointments for a few other controversial nominees, including labor attorney Craig Becker, now on the National Labor Relations Board, and Chai Feldblum, now on the Equal Employment Opportunity Commission.” (Jake Tapper, “President Obama to Make Recess Appointment of CMS Administrator Republicans Attacking as ‘Expert on Rationing,’” *ABC News’ Political Punch Blog*, 7/6/10)

BUT DURING BUSH ADMINISTRATION, OBAMA AND SENATE DEMS HAD BEEN OUTRAGED BY RECESS APPOINTMENTS

In 2007, Sen. John Kerry (D-MA) Said Of Bush’s Recess Appointment “When This White House Can’t Win The Game, They Just Change The Rules, And America Loses.” KERRY: “It’s sad but not surprising that this White House would abuse the power of the presidency to reward a donor over the objections of the Senate. This nomination was withdrawn because the Administration realized it would lose in the Foreign Relations Committee. Unfortunately, when this White House can’t win the game, they just change the rules, and America loses.” (Sen. John Kerry, “Kerry on White House Recess Appointment of Sam Fox,” [Press Release](#), 4/4/07)

Then-Sen. Obama Said U.S. “Will Have Less Credibility” At U.N. By Having Recess-Appointed Ambassador. “Illinois’ U.S. senators, Dick Durbin and Barack Obama, were critical Monday of President Bush’s appointment of John Bolton as ambassador to the United Nations... ‘To some degree, he’s damaged goods,’ Obama said of Bolton. ‘Not in the history of United Nations representatives have we ever had a recess appointment, somebody who couldn’t get through a nomination in the Senate. And I think that that means that we will have less credibility and ironically be less equipped to reform the United Nations in the way that it needs to be reformed.’” (Bernard Schoenburg, “Bush Sends Bolton To U.N.; Durbin, Obama Criticize Move,” *The State Journal-Register*, 8/2/05)

Then-Sen Joe Biden (D-DE) Said The President Is Not Entitled To The Appointment Of Any Nominee. BIDEN: “As I said, we don’t work for the president. And no president is entitled to the appointment of anyone he nominates. No president is entitled by the mere fact he has nominated someone. That’s why they wrote the Constitution the way they did: It says ‘advice and consent.’” (Committee on Foreign Relations, U.S. Senate, Hearing, 5/12/05)

Sen. Harry Reid (D-NV) Called Recess Appointments “An End Run Around The Senate And The Constitution.” REID: “I will keep the Senate in pro forma session to block the President from doing an end run around the Senate and the Constitution with his controversial nominations.” (Sen. Reid, Congressional Record, S.15980, 12/19/07)

Sen. Chuck Schumer (D-NY): “The president is on shaky ground with the hard right and is using this questionably legal and politically shabby technique to bolster himself. Regularly circumventing the advise and consent process is not the way to change the tone in Washington.” (“Bush Uses Recess Appointment To Put Nominee On Court,” [CNN](#), 2/20/04)

Sen. Dick Durbin (D-IL) Said Recess Appointments “Ignore The Will Of The Senate” And Are Really “Troubling.”

DURBIN: “When you have an appointment that is this critical and this sensitive, and the president basically says he's going to ignore the will of the senate and push someone through, it really is troubling.” (Bernard Schoenburg, “Bush Sends Bolton To U.N.; Durbin, Obama Criticize Move,” *The State Journal-Register*, 8/2/05)

- **Durbin Calls Recess Appointments “Unconstitutional” And “Confrontational.”** DURBIN: “I agree with Senator Kennedy that Mr. Pryor’s recess appointment, which occurred during a brief recess of Congress, could easily be unconstitutional. It was certainly confrontational. Recess appointments lack the permanence and independence contemplated by the Framers of the Constitution.” (Sen. Durbin, Congressional Record, S.6253, 6/9/05)

Sen. Patty Murray (D-WA) Felt Democrats “Were Blindsided” By Bush Recess Appointments. “People Are Concerned.

With that in mind, Senate Democrats said they have little faith that Bush will play nice and refrain from making the controversial appointments. Democrats have been blindsided by Bush before, particularly in April when the president tapped three controversial nominees for executive branch slots.....'I think every time there's a recess, people are concerned that the president might use that' option, echoed Sen. Patty Murray (Wash.), the Democratic Conference secretary.” (“Reid Mulls Pro Forma Sessions,” *Roll Call*, 11/15/07)