

Obama's Authoritarianism



[Freedom In America Today](#)

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Dear Friends,

The importance of honor, integrity and purposed defined effort to adhere to the order of law, is crucial in a Representative Republican form of government! If "*We the People*" do not demand the aforementioned from all those who presently are in a position of power within our government (elected office-holders and their bureaucrats) then there can be no hope for the preservation of freedom in America!

Robert



New Common Sense

Applying First Principles to the Issues of Today

Obama's Authoritarianism

Last week, President Obama [cast aside the Constitution and a century of legal tradition](#) with an unprecedented move to make "recess" appointments while the

Senate was meeting in pro forma sessions. Obama asserted the authority to decide when the Senate is in recess in order to install, without the Senate's consent, three members to the National Labor Relations Board and Richard Cordray as the head of the new Consumer Financial Protection Bureau.

Obama's claimed power to override the Senate reveals a worrisome disregard for the separation of powers and an equally troubling sense of imperial arrogance.

To be clear, the dispute is not over the President's authority to make recess appointments. It is whether or not the Senate was "in recess" when Obama made the "recess" appointments. Obama rejects the Senate's claim to be in session when most Senators are out-of-town.

The Constitution prohibits either house of Congress from adjourning for more than three days without the consent of the other house. Since the House did not consent to a Senate recess, the Senate must remain in session. Since the Constitution stipulates that "[each House may determine the rules of its proceedings](#)," the Senate chose to stay in session by holding pro forma sessions (very brief sessions with only a few members) every few days. This allows the Senate to remain in session formally without requiring all the Senators to return to DC. As Heritage's [Todd Gaziano noted](#): "It does not matter a wit that most Members of Congress are not in town voting on legislation, because ending a session of Congress requires the passage of a formal resolution, which never occurred."

Thus, according to Senate rules of operation (which the Senate alone has the authority to determine), the Senate was not in recess. Obama does not deny this. Rather he asserts that pro forma sessions aren't real sessions and that the Senate was therefore "functionally" in recess.

President Obama has a [clear track record of agreeing that pro forma sessions do not constitute a recess](#). On December 23, less than two weeks before making the appointments, Obama asked the Senate to convene a pro forma session in order to pass the payroll tax extension. The Senate did, and Obama signed the bill without any doubts about the validity of pro forma sessions.

After the 2006 elections, Senate Democrats convened pro forma sessions to

block President Bush's nominees. At the time, Senate Democrats were fully confident that pro forma sessions were not a recess. [Harry Reid notably explained](#) that "I had to keep the Senate in pro forma session to block the Bradbury appointment. That necessarily meant no recess appointments could be made." This is the same Harry Reid who [declared](#): "I support President Obama's appointment today of Richard Cordray to head the CFPB."

Even more troubling is the imperial philosophy the argument reveals. For the executive to claim the authority to invalidate the Senate's use of pro forma sessions demonstrates a chilling disregard for the separation of powers. Sadly, this incident is merely the latest chapter in the ongoing saga of Obama's [increasingly imperial presidency](#). Since the 2010 elections, Obama has made a very public show of his weariness to work with Congress and his willingness to bypass it whenever possible. Obama has, for example, used executive waivers to circumvent Congress in changing No Child Left Behind. Yet until now, Obama has at least claimed that he would [act within his proper executive authority](#). As this latest incident suggests, Obama may be dropping even the pretext of adhering to the Constitution.

