

112TH CONGRESS  
2D SESSION

# H. RES. 509

Disapproving of the President's appointment of four officers or employees of the United States during a period when no recess of the Congress for a period of more than three days was authorized by concurrent resolution and expressing the sense of the House of Representatives that those appointments were made in violation of the Constitution.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2012

Mrs. BLACK (for herself, Mrs. ADAMS, Mr. AKIN, Mr. AUSTRIA, Mr. BILIRAKIS, Mrs. BLACKBURN, Mr. BONNER, Mr. BROOKS, Mr. BURGESS, Mr. BURTON of Indiana, Mr. COFFMAN of Colorado, Mr. CONAWAY, Mr. CRAVAACK, Mr. CRAWFORD, Mr. DESJARLAIS, Mr. DUNCAN of Tennessee, Mrs. ELLMERS, Mr. FINCHER, Mr. FITZPATRICK, Mr. FLAKE, Mr. FLEISCHMANN, Mr. FRANKS of Arizona, Mr. GARRETT, Mr. GERLACH, Mr. GIBBS, Mr. GOHMERT, Mr. GOSAR, Mr. GRIFFIN of Arkansas, Mr. GUTHRIE, Mr. HARPER, Mr. HARRIS, Mr. HUIZENGA of Michigan, Mr. HULTGREN, Ms. JENKINS, Mr. JOHNSON of Ohio, Mr. SAM JOHNSON of Texas, Mr. JONES, Mr. KING of Iowa, Mr. KINZINGER of Illinois, Mr. LABRADOR, Mr. LAMBORN, Mr. LANDRY, Mrs. LUMMIS, Mr. MARINO, Mr. MCCLINTOCK, Mr. MCCOTTER, Mr. MCHENRY, Mr. MILLER of Florida, Mr. MULVANEY, Mr. MURPHY of Pennsylvania, Mr. NUGENT, Mr. NUNNELEE, Mr. PALAZZO, Mr. PAUL, Mr. PITTS, Mr. POMPEO, Mrs. ROBY, Mr. ROSS of Florida, Mrs. SCHMIDT, Mr. SCHOCK, Mr. SIMPSON, Mr. STIVERS, Mr. TIBERI, Mr. WALSH of Illinois, Mr. WESTMORELAND, Mr. WILSON of South Carolina, Mr. WOMACK, Mr. YOUNG of Florida, Mr. SCALISE, Mr. CANSECO, and Mr. QUAYLE) submitted the following resolution

JANUARY 17, 2012

Referred to the Committee on the Judiciary

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## RESOLUTION

Disapproving of the President's appointment of four officers

or employees of the United States during a period when no recess of the Congress for a period of more than three days was authorized by concurrent resolution and expressing the sense of the House of Representatives that those appointments were made in violation of the Constitution.

Whereas article 1, section 5, clause 4 of the Constitution states, “Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days”;

Whereas a 1993 Justice Department Memorandum, relating to the case of *Mackie v. Clinton* and formally known as the Memorandum of Points and Authorities in Support of Defendants’ Opposition to Plaintiffs’ Motion for Partial Summary Judgment, states the following: “If the recess here at issue were of three days or less, a closer question would be presented. The Constitution restricts the Senate’s ability to adjourn its session for more than three days without obtaining the consent of the House of Representatives . . . It might be argued that this means that the Framers did not consider one, two and three day recesses to be constitutionally significant.”;

Whereas, on January 4, 2012, President Barack Obama appointed Richard Cordray to be the Director of the Bureau of Consumer Financial Protection and appointed Sharon Block, Terence Flynn, and Richard Griffin to the National Labor Relations Board; and

Whereas these appointments broke the long-established precedent of Congress being in recess for more than three days before the President can make a recess appointment: Now, therefore, be it

1       *Resolved*, That the House of Representatives dis-  
2 approves of the President's appointment of four officers  
3 or employees of the United States during a period when  
4 no recess of the Congress for a period of more than three  
5 days was authorized by concurrent resolution and ex-  
6 presses the sense of the House of Representatives that  
7 those appointments were made in violation of the Con-  
8 stitution.

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