

MEMORANDUM

February 4, 2013

Subject: The *Noel Canning* Decision and Recess Appointments Made from 1981-2013

From: Henry B. Hogue, Analyst in American National Government, 7-0642
Maeve P. Carey, Analyst in Government Organization and Management, 7-7775
Michael W. Greene, Information Research Specialist, 7-8900
Maureen Bearden, Information Research Specialist, 7-8955

This memorandum was prepared to enable distribution to more than one congressional office.

On January 25, 2013, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) issued its opinion in *Noel Canning v. National Labor Relations Board* (hereafter *Noel Canning*).¹ In its ruling, the court determined that the President can make recess appointments only during intersession recesses,² and that such appointments can be made only to vacancies that have occurred during the recess in which the appointment is made.³ The court also appeared to support the position that the recess appointment power may not be used to fill newly established positions, although that question was not before the court.

This memorandum provides preliminary discussion of the impact *Noel Canning* might have had on recess appointments made since January 20, 1981, the beginning of the Ronald W. Reagan Administration, had the decision preceded these appointments. It presents data on all the recess appointments during that period that CRS has been able to identify (hereafter, “documented recess appointments”). It also identifies, in summary and detailed form, which of these appointments might have been affected by the court’s first determination above, which essentially precludes intrasession recess appointments.

It should be noted that most of the recess appointments discussed in this memorandum are unaffected by the *Noel Canning* decision, which was limited in its scope to President Barack Obama’s January 2012 recess appointments to the National Labor Relations Board. In addition, the short duration of recess appointments, which last only until the end of the next session of the Senate, is such that almost all of the recess appointments listed in this memorandum have ended.⁴

¹ *Canning v. NLRB*, No. 12-1225, 2013 U.S. App. LEXIS 1659 (D.C. Cir. Jan. 25, 2013).

² *Intersession* recess appointments are those made between annual sessions of the Senate. The court indicated in *Noel Canning* that intersession recesses are only entered into when Congress adjourns sine die to end the session of Congress. *Intrasession* recess appointments are those made during recesses within annual sessions of the Senate. See CRS Report RS21308, *Recess Appointments: Frequently Asked Questions*, by Henry B. Hogue.

³ A discussion of the implications of *Noel Canning* for the official actions of past recess appointees is beyond the scope of this memorandum. For a brief legal analysis of the case, see David H. Carpenter, “DC Circuit Rules President Obama’s Recess Appointments Unconstitutional,” January 28, 2013, at <http://crs.gov/analysis/legalsidebar/pages/details.aspx?ProdId=379&source=legalSidebar>.

⁴ In some cases, the individuals were subsequently confirmed to the position following the recess appointment and therefore (continued...)

Research Limitations

Research concerning the impact that this ruling might have had on past recess appointments, had it preceded these appointments, was constrained by limitations on data availability as well as CRS's inability to determine, in retrospect, how the ruling might have affected other choices by the President and his appointees.

Authoritative information about past recess appointments is not readily available. CRS is not aware of a publicly available source that provides comprehensive data of this kind, so the data provided in this memorandum have been collected from a variety of sources.⁵ Consequently, it is possible that the tables below do not identify all recess appointments that have occurred since January 20, 1981.

Similarly, comprehensive, authoritative information about precisely when recess appointments have occurred—that is, when the President has signed the appointee's commission—is not readily available. In some cases, the White House has supplied this information, either by telephone or in an announcement of an appointment. In many cases, however, neither the White House nor other source of appointment information has specified the precise appointment date. In certain cases in which the end of one recess falls near the beginning of another recess, as sometimes happens around the end of one Senate session and the beginning of the next Senate session, it can be difficult to determine during which recess an appointment has occurred. In the absence of such precise information, some intrasession recess appointments may be miscategorized as intersession recess appointments and vice versa.

During the Clinton and G.W. Bush Administrations, CRS verified then-current data with the White House Executive Clerk, so data for these Administrations are thought to be more authoritative than that for the two earlier Administrations. Because CRS has not been able to verify the data for these two earlier Administrations, the recess appointment data for these Administrations may be incomplete.

The Obama Administration appears to have consistently announced the President's recess appointments on the White House website, and these actions have been a matter of considerable public interest and attention. Consequently, the data presented in this memorandum are thought to identify all of President Obama's recess appointments. Attempts to verify the precise dates of these appointments with the White House Executive Clerk were unsuccessful, however, so the Obama recess appointment data may be considered incomplete in this regard.

(...continued)

served in office longer than the duration of the recess appointment.

⁵ The information in this memorandum was compiled from White House news releases; the White House Executive Clerk; various volumes of the *Weekly Compilation of Presidential Documents*, and the Legislative Information System (LIS) nominations database, at <http://www.congress.gov/nomis/>. Each of these sources has inherent limitations as a source of recess appointment data. For example, while the LIS nominations database contains comprehensive information about nominations submitted to the Senate, as the website explains:

Recess appointment information that is not sent to the Senate is not tracked by the Nominations database. For example, the recess appointment of Frederick L. Feinstein to the National Labor Relations Board on October 22, 1998, was not sent to the Senate by the President as a nomination, and is not tracked by the Nominations database. Recess appointment information that is sent by the President to the Senate appears in the abstract of the nomination. For example, Frank S. Holleman III to be Deputy Secretary of Education on February 3, 2000 'to which position he was appointed during the last recess of the Senate' (PN772). One must check other sources to learn that the recess appointment was on December 28, 1999 because it is not in the scope of the Nominations database to track recess appointments. (See <http://www.congress.gov/help/nom/basics.php>.)

CRS has been unable to identify an authoritative, comprehensive source of information about the dates of vacancies in positions filled through appointment by the President with the advice and consent of the Senate (advice and consent positions).⁶

Finally, it is not possible to determine, retrospectively, how the *Noel Canning* decision might have affected choices of the President and his appointees, had the decision preceded the appointments discussed in this memorandum. Officials might have altered their behavior in such a way that a recess appointment would still have been possible. For example, in some cases where an official resigned prior to the beginning of an intersession recess, he or she might have delayed the effect of that resignation so that the vacancy would occur during an intersession recess. Consequently, although the research presented here can identify specific recess appointments that might have been precluded by *Noel Canning*, it cannot determine whether a similar recess appointment of the same individual to the same position might have been made in such a way as to satisfy the ruling's criteria.

Applying the *Noel Canning* Criteria to Past Appointments

If the court had issued its decision in *Noel Canning* prior to January 20, 1981, it is possible that the President would have been precluded from making many of the specific recess appointments listed in this memorandum.⁷ It appears that each of the *Noel Canning* criteria could have precluded some recess appointments.

First, it appears that the President may not have had the authority to make any intrasession recess appointments. The intrasession recess appointments that were made during the period from January 20, 1981, through the present are identified below.

Second, it appears that the President could have made only those intersession recess appointments for which the vacancy arose during the recess in which the President subsequently made the recess appointment. Obtaining the precise dates on which each vacancy began can be difficult; therefore, at this time, CRS is unable to determine which of the intersession recess appointments listed in this memorandum would have been precluded under the court's ruling. Preliminary research suggests, however, that many of the intersession recess appointments listed in this memorandum might have been precluded, had *Noel Canning* been decided prior to January 20, 1981.⁸ This preliminary research involved examining the vacancy dates associated with a random sample of 24 intersession recess appointments listed in this memorandum. Sources consulted for this research included the LIS nominations database and agency and White House press releases. In most of the 24 cases, the preponderance of evidence indicated that the vacancy arose prior to the recess during which the appointment was made. Although further research is needed, the initial findings suggest that a substantial number of the specific intersession recess appointments listed in this memorandum might have been precluded by *Noel Canning*, had it been decided prior to January 20, 1981.

⁶ CRS is unaware of any official source of information tracking the dates of vacancies in federal offices. While the Government Accountability Office keeps some data on vacancies, their database may not be complete since it relies upon agencies to self-report each vacancy as it arises.

⁷ As previously noted, under these circumstances, Presidents might have made similar recess appointments that would have met the ruling's criteria for a valid recess appointment, at least in some cases.

⁸ More information on this preliminary research is available from the authors.

Third, the court also appeared to support the position that the recess appointment power may not be used to fill newly established positions, although that question was not before the court. CRS was not able to assemble a comprehensive list of such appointments since January 1981 in the time available for the preparation of this memorandum. However, it appears that such a list might include, for example, President William J. Clinton's recess appointment of Roger Gregory to a new judgeship on the U.S. Court of Appeals for the Fourth Circuit and President George W. Bush's 2005 recess appointments of all of the members of the Defense Base Closure and Realignment Commission.⁹

Data on Intrasession and Intersession Recess Appointments

The remainder of this memorandum consists of a series of 11 tables that provide information on documented recess appointments since January 20, 1981. **Table 1** provides estimates of the total number of these recess appointments that appear to have occurred during intrasession and intersession recesses, respectively, by President. The subsequent tables list the individual recess appointments made by each President, in chronological order. **Tables 2, 4, 6, 8, and 10** identify documented recess appointments that appear to have been made during intrasession recesses, and **Tables 3, 5, 7, 9, and 11** identify documented recess appointments that appear to have been made during intersession recesses.

Table 1. Total Number of Documented Intrasession and Intersession Recess Appointments since January 20, 1981, by President

Administration	Intrasession recess appointments (estimate)	Intersession recess appointments (estimate)	Total documented recess appointments
Ronald W. Reagan	72	160	232
George H. W. Bush	37	41	78
William J. Clinton	53	86	139
George W. Bush	141	30	171
Barack H. Obama	26	6	32
Total	329	323	652

Source: Table created by CRS based on data provided in **Tables 2-11**.

Note: This table is based on information collected from the sources specified in **Tables 2-11**. Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. Consequently, although this table reflects all recess appointments since January 20, 1981, that have been documented by CRS to date, it may not reflect all recess appointments that actually occurred during that period. Similarly, because precise appointment dates could not be verified in all instances, some intersession recess appointments may have been miscategorized as intrasession or vice versa, so totals provided here are characterized as estimates.

Ronald W. Reagan Administration

Table 2 identifies documented recess appointments by President Ronald Reagan that appear to have been made during intrasession recesses. Had *Noel Canning* been decided prior to President Reagan's time in

⁹ The commission appointments were made during an intrasession recess, and so would probably have been precluded on that basis as well.

office, it appears that he would have been precluded from making any of these specific recess appointments.

Table 2. Documented Recess Appointments by President Ronald Reagan Apparently Made During Intrasession Recesses

Recess Appointee	Position	Date announced or appointed
Terry Chambers	Alternate Federal Cochair of eight regional commissions: Coastal Plains, Four Corners, New England, Old West, Ozarks, Pacific Northwest, Southwest Border, and Upper Great Lakes Regional Commissions	08/07/81
John R. Van de Water	Member, National Labor Relations Board	08/13/81
Robert P. Hunter	Member, National Labor Relations Board	08/13/81
Richard M. Murphy	Ambassador, Kingdom of Saudi Arabia, Department of State	08/19/81
Darrell Trent	Member, Board of Directors, AMTRAK	09/08/81
John M. Fowler	Member, Board of Directors, AMTRAK	09/08/81
Lee L. Verstandig	Member, Board of Directors, AMTRAK	09/08/81
Arthur E. Teele	Member, Board of Directors, AMTRAK	09/08/81
Charles Swinburn	Member, Board of Directors, AMTRAK	09/08/81
Mark S. Knouse	Member, Board of Directors, AMTRAK	09/08/81
Jeane J. Kirkpatrick	Representative, U.N. General Assembly Session	09/08/81
Kenneth L. Adelman	Representative, U.N. General Assembly Session	09/08/81
Andy Ireland	Representative, U.N. General Assembly Session	09/08/81
Benjamin A. Gilman	Representative, U.N. General Assembly Session	09/08/81
John Sherman Cooper	Representative, U.N. General Assembly Session	09/08/81
Charles M. Lichenstein	Alternate Representative, U.N. General Assembly Session	09/08/81
Jose S. Sorzano	Alternate Representative, U.N. General Assembly Session	09/08/81
William Courtney Sherman	Alternate Representative, U.N. General Assembly Session	09/08/81
Bruce Caputo	Alternate Representative, U.N. General Assembly Session	09/08/81
George Christopher	Alternate Representative, U.N. General Assembly Session	09/08/81
Richard V. Backley	Member, Federal Mine Safety and Health Review Commission	09/07/82
L. Clair Nelson	Member, Federal Mine Safety and Health Review Commission	10/06/82
Martin S. Feldstein	Member, Council of Economic Advisors	10/14/82
Orville G. Bentley	Assistant Secretary - Science and Education, Department of Agriculture	10/14/82
William Gene Leshner	Member, Board of Directors, National Consumer Cooperative Bank	10/22/82
Caroline H. Hume	Member, National Museum Services Board	10/22/82
Frank J. Donatelli	Member, Board of Directors, Legal Services Corporation	10/23/82
Daniel M. Rathburn	Member, Board of Directors, Legal Services Corporation	10/23/82
Manuel H. Johnson Jr.	Assistant Secretary - Economic Policy, Department of the Treasury	11/02/82

Recess Appointee	Position	Date announced or appointed
Edward A. Knapp	Director, National Science Foundation	11/02/82
Donald P. Hodel	Secretary, Department of Energy	11/05/82
Martha O. Hesse	Assistant Secretary - Management and Administration, Department of Energy	11/10/82
Mastin Gentry White	Judge, United States Claims Court	11/10/82
James Daniel Phillips	Alternate Representative, UNESCO General Conference	11/19/82
Jean Broward Shelvin Gerard	Representative, UNESCO General Conference	11/19/82
Milton M. Masson	Member, Board of Directors, Legal Services Corporation	01/21/83
Robert E. McCarthy	Member, Board of Directors, Legal Services Corporation	01/21/83
Donald Eugene Santarelli	Member, Board of Directors, Legal Services Corporation	01/21/83
E. Donald Shapiro	Member, Board of Directors, Legal Services Corporation	01/21/83
Linda Chavez Gersten	Staff Director, Commission on Civil Rights	08/16/83
J. William Middendorf II	Member, Board of Directors, Inter-American Foundation	09/06/83
Langhorne A. Motley	Member, Board of Directors, Inter-American Foundation	09/06/83
William Lee Hanley Jr.	Member, Board of Directors, Corporation for Public Broadcasting	09/12/83
Erich Bloch	Director, National Science Foundation	07/02/84
Robert N. Broadbent	Assistant Secretary, Department of the Interior	07/02/84
Melvin A. Ensley	Member, Federal Farm Credit Board, Farm Credit Administration	07/02/84
Marianne Mele Hall	Commissioner, Copyright Royalty Tribunal	07/02/84
Dodie Truman Livingston	Chief, Children's Bureau, Department of Health and Human Services	07/02/84
Martha R. Seger	Member, Board of Directors, Federal Reserve System	07/02/84
William Barclay Allen	Member, National Council on the Humanities	07/02/84
Mary Josephine Conrad Cresimore	Member, National Council on the Humanities	07/02/84
Leon Richard Kass	Member, National Council on the Humanities	07/02/84
Kathleen S. Kilpatrick	Member, National Council on the Humanities	07/02/84
Robert Laxalt	Member, National Council on the Humanities	07/02/84
James B. Schall	Member, National Council on the Humanities	07/02/84
Helen Marie Taylor	Member, National Council on the Humanities	07/02/84
Donald Ian MacDonald	Administrator, Alcohol, Drug Abuse, and Mental Health Administration	07/03/84
Lando W. Zech Jr.	Member, Nuclear Regulatory Commission	07/03/84
Carol Gene Dawson	Commissioner, Consumer Products Safety Commission	07/05/84
Robert A. Rowland	Assistant Secretary - Occupational Safety and Health, Department of Labor	07/20/84
John A. Bohn	First Vice President, Export-Import Bank	01/21/85
Richard H. Hughes	Member, Board of Directors, Export-Import Bank	01/21/85
Vance L. Clark	Administrator, Farmers Home Administration	08/08/85

Recess Appointee	Position	Date announced or appointed
Thomas John Josefiak	Member, Federal Election Commission	08/08/85
Raymond D. Lett	Assistant Secretary, Department of Agriculture	08/08/85
Hugh Montgomery	Alternate Representative for Special Political Affairs, United Nations	08/08/85
Herbert Stuart Okun	Deputy Representative of the United States, United Nations	08/08/85
Robert E. Rader Jr.	Member, Occupational Safety and Health Review Commission	08/08/85
John R. Wall	Member, Occupational Safety and Health Review Commission	08/08/85
Robert Bigger Oakley	Ambassador, Islamic Republic of Pakistan, Department of State	08/26/88
John E. Higgins Jr.	Member, National Labor Relations Board	08/29/88
Wilford W. Johansen	Member, National Labor Relations Board	08/29/88
Total documented Reagan recess appointments apparently made during intrasession recess		72

Source: Table created by CRS using data obtained from various volumes of the *Weekly Compilation of Presidential Documents* and from the Legislative Information System (LIS) nominations database. The LIS nominations database is available to the congressional community at <http://www.congress.gov/nomis/>. Similar information is available to the general public through the legislation information website of the Library of Congress, Thomas, at <http://www.thomas.gov/home/nomis.html>.

Note: This table is based on information collected from the sources specified above. Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. Consequently, although this table includes all specified recess appointments that have been documented by CRS to date, it may not include all specified recess appointments that actually occurred. Similarly, because precise appointment dates could not be verified in all instances, some intersession recess appointments may have been miscategorized as intrasession or vice versa, particularly where the date of action is close to the date of the convening of a new session of the Senate.

Table 3 identifies the documented recess appointments by President Reagan that appear to have been made during intersession recesses. As explained above, if *Noel Canning* had been decided prior to his tenure in office, President Reagan might have been precluded from making many of the recess appointments identified in this table. Specifically, appointments made to positions that were vacant prior to the start of the recess during which he made the appointment would not have been considered valid under *Noel Canning*. It is possible that had *Noel Canning* been decided prior to the Reagan presidency, however, some Reagan appointees might have elected to schedule their departures during intersession recesses in order to provide the President with the option of filling the resulting vacancy through recess appointment. Given limitations in publicly available data on precise vacancy dates, CRS was unable to determine which recess appointments might have been precluded by the ruling.

Table 3. Documented Recess Appointments by President Ronald Reagan Apparently Made During Intersession Recesses

Recess Appointee	Position	Date announced or appointed
Joan D. Aikens	Member, Federal Election Commission	12/17/81
Lee Ann Elliot	Member, Federal Election Commission	12/17/81
Danny Lee McDonald	Member, Federal Election Commission	12/17/81
Herbert E. Ellingwood	Member, Merit Systems Protection Board	12/17/81
Herbert E. Ellingwood	Chair, Merit Systems Protection Board	12/17/81

Recess Appointee	Position	Date announced or appointed
Cathie A. Shattuck	Member, Equal Employment Opportunity Commission	12/18/81
William J. Bennett	Chair, National Endowment for the Humanities	12/21/81
Howard H. Dana Jr.	Member, Board of Directors, Legal Services Corporation	12/31/81
Marc Sandstrom	Member, Board of Directors, Legal Services Corporation	12/31/81
William F. Harvey	Member, Board of Directors, Legal Services Corporation	12/31/81
William J. Olson	Member, Board of Directors, Legal Services Corporation	12/31/81
George E. Paras	Member, Board of Directors, Legal Services Corporation	12/31/81
Robert Sherwood Stubbs II	Member, Board of Directors, Legal Services Corporation	12/31/81
David E. Satterfield III	Member, Board of Directors, Legal Services Corporation	12/31/81
Kenneth E. Moffett	Director, Federal Mediation and Conciliation Service	01/11/82
Harold R. Demoss Jr.	Member, Board of Directors, Legal Services Corporation	01/22/82
Clarence V. McKee	Member, Board of Directors, Legal Services Corporation	01/22/82
Annie Laurie Slaughter	Member, Board of Directors, Legal Services Corporation	01/22/82
John C. Miller	Member, National Labor Relations Board	12/23/82
Ronald B. Frankum	Member, Board of Directors, Legal Services Corporation	11/19/83
Dennis R. Patrick	Member, Federal Communications Commission	11/30/83
Ruth O. Peters	Governor, U.S. Postal Service	12/02/83
Harold K. Phillips	Member, Board of Directors, Inter-American Foundation	12/05/83
Vernon L. Grose	Member, National Transportation Safety Board	12/05/83
Stephanie Lee-Miller	Assistant Secretary - Public Affairs, Department of Health and Human Services	12/06/83
Maurice Lee Barksdale	Assistant Secretary - Housing/Federal Housing Commissioner, Department of Housing and Urban Development	12/06/83
Louis Roman DiSabato	Member, National Museum Services Board	12/06/83
Leslie Lenkowsky	Deputy Director, United States Information Agency	12/06/83
Simeon Miller Bright	Commissioner, Postal Rate Commission	12/07/83
Donna F. Tuttle	Under Secretary - Travel and Tourism, Department of Commerce	12/08/83
Mary Kate Bush	U.S. Alternate Executive Director, International Monetary Fund	12/13/83
Elliot Ross Buckley	Member, Occupational Safety and Health Review Commission	01/04/84
Frieda Waldman	Governor, U.S. Postal Service	01/06/84
Paul H. Nitze	Special Representative for Arms Control and Disarmament Negotiations,	01/13/84
Albert Angrisani	Member, Board of Directors, Legal Services Corporation	01/21/84
Peter Joseph Ferrara	Member, Board of Directors, Legal Services Corporation	01/21/84
Maureen E. Corcoran	General Counsel, Department of Education	01/21/84
Rosemary M. Collyer	General Counsel, National Labor Relations Board	10/16/84
James A. Lastowka	Member, Federal Mine Safety and Health Review Commission	10/26/84
Peter Scott Bridges	Ambassador, Somali Democratic Republic, Department of State	11/14/84

Recess Appointee	Position	Date announced or appointed
Hortencia Benavides	Member, Board of Directors, Legal Services Corporation	11/23/84
Leanne Bernstein	Member, Board of Directors, Legal Services Corporation	11/23/84
William Clark Durant III	Member, Board of Directors, Legal Services Corporation	11/23/84
Paul B. Eaglin	Member, Board of Directors, Legal Services Corporation	11/23/84
Pepe J. Mendez	Member, Board of Directors, Legal Services Corporation	11/23/84
Lorain Miller	Member, Board of Directors, Legal Services Corporation	11/23/84
Thomas F. Smegal Jr.	Member, Board of Directors, Legal Services Corporation	11/23/84
Claude Galbreath Swafford	Member, Board of Directors, Legal Services Corporation	11/23/84
Basile Joseph Uddo	Member, Board of Directors, Legal Services Corporation	11/23/84
Robert A. Valois	Member, Board of Directors, Legal Services Corporation	11/23/84
Michael B. Wallace	Member, Board of Directors, Legal Services Corporation	11/23/84
Rosalie Gaull Silberman	Member, Equal Employment Opportunity Commission	11/27/84
Pauline Crowe Naftzger	Member, National Museum Services Board	11/27/84
Mary L. Azcuenaga	Commissioner, Federal Trade Commission	11/27/84
Elizabeth Helms Adams	Member, National Advisory Council on Women's Educational Programs	11/27/84
Peter Douglas Keisler	Member, National Advisory Council on Women's Educational Programs	11/27/84
Barbara W. Schlicher	Member, Board of Directors, National Corporation for Housing Partnerships	11/28/84
Edward J. Philbin	Commissioner, Federal Maritime Commission	11/28/84
Tom Corcoran	Member, Board of Directors, United States Synthetic Fuels Corporation	11/28/84
Paul Webster MacAvoy	Member, Board of Directors, United States Synthetic Fuels Corporation	11/28/84
Eric Reichl	Member, Board of Directors, United States Synthetic Fuels Corporation	11/28/84
Mae Neal Peden	Assistant Administrator, Agency for International Development	11/29/84
John D. Ward	Director, Office of Surface Mining Reclamation and Enforcement	11/30/84
John W. Shannon	Assistant Secretary - Installations and Logistics, Department of the Army	12/07/84
Ralph E. Kennickell Jr.	Public Printer, Government Printing Office	12/11/84
Karen Pryor	Member, Marine Mammal Commission	12/12/84
Robert Elsner	Member, Marine Mammal Commission	12/12/84
John N. Griesemer	Governor, U.S. Postal Service	12/12/84
Richard H. Jones	Deputy Administrator, Federal Aviation Administration	12/13/84
William J. McGinnis Jr.	Member, Federal Labor Relations Authority	12/14/84
Bonnie Guiton	Commissioner, Postal Rate Commission	12/14/84
Richard H. Hughes	Member, Board of Directors, Export-Import Bank	12/21/84
Terrence M. Scanlon	Chair, Consumer Products Safety Commission	12/28/84
Helmut A. Merklein	Administrator, Energy Information Administration	12/31/84
David M. Twomey ^a	Lt. General, Marine Corps	01/85 ^a
Robert W. Bazley ^a	General, Air Force	01/85 ^a

Recess Appointee	Position	Date announced or appointed
Robert C. Kingston ^a	General, Army	01/85 ^a
Lee H. Henkel Jr.	Member, Federal Home Loan Bank Board	11/07/86
Lawrence J. White	Member, Federal Home Loan Bank Board	11/07/86
Edward Morgan Rowell	Ambassador, Republic of Portugal, Department of State	01/19/88
Ronald A. Cass	Member, U.S. International Trade Commission	01/19/88
Joseph R. Wright Jr.	Director, Office of Management and Budget	11/08/88
Jane A. Kenny	Deputy Director, ACTION	11/22/88
Lew W. Cramer	Assistant Secretary and Director General of the U.S. and Foreign Commercial Service, Department of Commerce	11/22/88
William P. Albrecht	Commissioner, Commodity Futures Trading Commission	11/22/88
Lawrence L. Lamade	General Counsel, Department of the Navy	11/22/88
Patrick Pizzella	Deputy Under Secretary - Management, Department of Education	11/22/88
Michelle Easton	Deputy Under Secretary - Intergovernmental and Interagency Affairs, Department of Education	11/22/88
Charles E.M. Kolb	Deputy Under Secretary - Planning, Budget, and Evaluation, Department of Education	11/22/88
Kenneth D. Whitehead	Assistant Secretary - Postsecondary Education, Department of Education	11/22/88
John R. Berg	Assistant Secretary - Conservative and Renewable Energy, Department of Energy	11/22/88
Francis S. Ruddy	General Counsel, Department of Energy	11/22/88
Margot E. Machol	Commissioner, Federal Trade Commission	11/22/88
Larry K. Mellinger	U.S. Executive Director, Inter-American Development Bank	11/22/88
Becky Norton Dunlop	Assistant Secretary - Fish and Wildlife, Department of the Interior	11/22/88
Janet J. McCoy	Assistant Secretary, Department of the Interior	11/22/88
Robert H. Gentile	Director, Office of Surface Mining Reclamation and Enforcement	11/22/88
David Courtland O'Neal	Assistant Secretary - Mine Safety and Health, Department of Labor	11/22/88
Francis J. Duggan	Assistant Secretary, Department of Labor	11/22/88
Jerry D. Blackmore	Assistant Secretary, Department of Labor	11/22/88
Jill Houghton Emery	Director, Women's Bureau, Department of Labor	11/22/88
J. Blakeley Hall	Member, Board of Directors, Legal Services Corporation	11/22/88
Samuel W. Bogley	Member, Merit Systems Protection Board	11/22/88
Dennis M. Devaney	Member, National Labor Relations Board	11/22/88
Linda Lugenia Arey	Member, Occupational Safety and Health Review Commission	11/22/88
Thomas J. Simon	Member, Railroad Retirement Board	11/22/88
Mary L. Schapiro	Member, Securities and Exchange Commission	11/22/88
Sonia Landau	Coordinator for International Communications and Information Policy, Department of State	11/22/88
Keith Lapham Brown	Ambassador, Denmark, Department of State	11/22/88

Recess Appointee	Position	Date announced or appointed
John Randolph Hubbard	Ambassador, India, Department of State	11/22/88
William Andreas Brown	Ambassador, Israel, Department of State	11/22/88
Richard Wood Boehm	Ambassador, Sultanate of Oman, Department of State	11/22/88
Gregory S. Dole	Assistant Secretary, Department of Transportation	11/22/88
Henry E. Hockheimer	Associate Director, United States Information Agency	11/22/88
Kathleen Day Koch	General Counsel, Federal Labor Relations Authority	12/22/88
Michael Ussery	Ambassador, Kingdom of Morocco, Department of State	12/22/88
John F. Cogan	Deputy Director, Office of Management and Budget	12/22/88
Patricia Mayes Hines	Assistant Secretary - Educational Research and Improvement, Department of Education	12/22/88
John C. Duncan	Member, Board of Directors, Inter-American Foundation	12/22/88
George Tyron Harding IV	Member, Board of Regents, Uniformed Services University of the Health Sciences	12/22/88
Chandler L. van Orman	Administrator, Economic Regulatory Administration	12/22/88
Philip Lawrence Christenson	Assistant Administrator, Agency for International Development	12/22/88
William G. Goetz	Member, National Advisory Council on Educational Research and Improvement	12/22/88
Donald M. Clark	Member, National Advisory Council on Educational Research and Improvement	12/22/88
Carl M. Kuttler Jr.	Member, National Advisory Council on Educational Research and Improvement	12/22/88
F. Clifton White	Member, Advisory Board for Radio Broadcasting to Cuba	12/22/88
Arch Madsen	Member, Board for International Broadcasting	12/22/88
Mary Falvey Fuller	Member, Boards of Trustees of the Federal Hospital Insurance Trust Fund; Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund; and Federal Supplementary Medical Insurance Trust Fund	12/22/88
Suzanne Denbo Jaffe	Member, Boards of Trustees of the Federal Hospital Insurance Trust Fund; Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund; and Federal Supplementary Medical Insurance Trust Fund	12/22/88
George James Bentson	Member, Board of Directors, Federal Agricultural Mortgage Corp.	12/22/88
Delba Winthrop	Member, Board of Trustees, James Madison Memorial Fellowship Foundation	12/22/88
Lance Banning	Member, Board of Trustees, James Madison Memorial Fellowship Foundation	12/22/88
Joan R. Challinor	Member, Board of Trustees, James Madison Memorial Fellowship Foundation	12/22/88
Elinor H. Swaim	Member, National Commissions on Libraries and Information Science	12/22/88
Wanda L. Forbes	Member, National Commissions on Libraries and Information Science	12/22/88
Margaret Phelan	Member, National Commissions on Libraries and Information Science	12/22/88
Charles E. Reid	Member, National Commissions on Libraries and Information Science	12/22/88

Recess Appointee	Position	Date announced or appointed
Ewen M. Wilson	Member, Board of Directors, National Consumer Cooperative Bank	12/22/88
John A. Gannon	Member, National Council on Disability	12/22/88
George H. Oberle Jr.	Member, National Council on Disability	12/22/88
Margaret Chase Hager	Member, National Council on Disability	12/22/88
Earl Roger Mandle	Member, National Council on the Arts	12/22/88
Gary L. McDowell	Member, National Council on the Humanities	12/22/88
Jeanne J. Smoot	Member, National Council on the Humanities	12/22/88
Arden L. Bement Jr.	Member, National Science Board, National Science Foundation	12/22/88
D. Allan Bromley	Member, National Science Board, National Science Foundation	12/22/88
Clarence J. Brown	Member, Board of Directors, Overseas Private Investment Corporation	12/22/88
Frederick N. Khedouri	Director, Securities Investor Protection Corporation	12/22/88
Peter L. Boynton	Member, Peace Corps Advisory Council	12/22/88
Robert W. Hazlett	Member, Peace Corps Advisory Council	12/22/88
Creghton E. Mershon Sr.	Member, Peace Corps Advisory Council	12/22/88
John J. Petillo	Member, Peace Corps Advisory Council	12/22/88
Alice Roxana Thompson	Member, Peace Corps Advisory Council	12/22/88
Colleen Toy White	Member, Peace Corps Advisory Council	12/22/88
John Bigelow	Member, Peace Corps Advisory Council	12/22/88
Marc L. Holtzman	Member, Peace Corps Advisory Council	12/22/88
Maureen O'Hara	Member, Peace Corps Advisory Council	12/22/88
Josephine K. Olsen	Member, Peace Corps Advisory Council	12/22/88
Gary Dale Robinson	Member, Peace Corps Advisory Council	12/22/88
Sue Wagner	Member, Peace Corps Advisory Council	12/22/88
Total documented Reagan recess appointments apparently made during intersession recess		160

Source: Table created by CRS using data obtained from various volumes of the *Weekly Compilation of Presidential Documents* and from the Legislative Information System (LIS) nominations database. The LIS nominations database is available to the congressional community at <http://www.congress.gov/nomis/>. Similar information is available to the general public through the legislation information website of the Library of Congress, Thomas, at <http://www.thomas.gov/home/nomis.html>.

Note: This table is based on information collected from the sources specified above. Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. Consequently, although this table includes all specified recess appointments that have been documented by CRS to date, it may not include all specified recess appointments that actually occurred. Similarly, because precise appointment dates could not be verified in all instances, some intersession recess appointments may have been miscategorized as intrasession or vice versa, particularly where the date of action is close to the date of the convening of a new session of the Senate.

a. For the three recess appointments noted in the table, no announcement or appointment dates could be located. However, the President subsequently submitted nominations to the Senate for these three individuals, and the nominations made reference to recess appointments made during the previous recess (which would have been the intersession recess from October 12, 1984, to January 3, 1985).

George H.W. Bush Administration

Table 4 identifies documented recess appointments by President George H.W. Bush that appear to have been made during intrasession recesses. Had *Noel Canning* been decided prior to President Bush's time in office, it appears that he would have been precluded from making any of these specific recess appointments.

Table 4. Documented Recess Appointments by President George H.W. Bush Apparently Made During Intrasession Recesses

Recess Appointee	Position	Date announced or appointed
Alan Greenspan	Chair, Board of Governors, Federal Reserve System	08/10/91
Mary F. Wieseman	Special Counsel, Office of Special Counsel	08/21/91
Ford B. Ford	Member, Federal Mine Safety and Health Review Commission	09/04/91
Norman D. Shumway	Board Member, Legal Services Corporation	09/05/91
Albert V. Casey	Chief Executive Officer, Resolution Trust Corporation	01/09/92
Daniel F. Evans Jr.	Director (designated Chair), Federal Housing Finance Board	01/09/92
Lawrence U. Costiglio	Director, Federal Housing Finance Board	01/09/92
William C. Perkins	Director, Federal Housing Finance Board	01/09/92
Marilyn R. Seymann	Director, Federal Housing Finance Board	01/09/92
Howard H. Dana Jr.	Board Member, Legal Services Corporation	01/10/92
J. Blakeley Hall	Board Member, Legal Services Corporation	01/10/92
William L. Kirk Jr.	Board Member, Legal Services Corporation	01/10/92
Jo Betts Love	Board Member, Legal Services Corporation	01/10/92
Guy V. Molinari	Board Member, Legal Services Corporation	01/10/92
Penny L. Pullen	Board Member, Legal Services Corporation	01/10/92
Thomas D. Rath	Board Member, Legal Services Corporation	01/10/92
Basile J. Uddo	Board Member, Legal Services Corporation	01/10/92
George W. Wittgraf	Board Member, Legal Services Corporation	01/10/92
Jeanine E. Wolbeck	Board Member, Legal Services Corporation	01/10/92
Edward J. Damich	Commissioner, Copyright Royalty Tribunal	09/03/92
Bruce D. Goodman	Commissioner, Copyright Royalty Tribunal	09/03/92
James H. Grossman	Chair, Foreign Claims Settlement Commission	09/03/92
David J. Ryder	Director, United States Mint, Department of the Treasury	09/03/92
Steven Muller	Member, National Security Education Board	01/06/93
S. William Pattis	Member, National Security Education Board	01/06/93
John P. Roche	Member, National Security Education Board	01/06/93
Richard F. Stolz	Member, National Security Education Board	01/06/93
Thomas L. Ashley	Governor, Board of Governors, U.S. Postal System	01/08/93

Recess Appointee	Position	Date announced or appointed
Marion G. Chambers	Member, Board of Trustees, Institute of American Indian and Alaska Native Culture and Arts Development	01/08/93
James A. Courter	Member, Defense Base Closure and Realignment Commission	01/08/93
Peter B. Bowman	Member, Defense Base Closure and Realignment Commission	01/08/93
Beverly B. Byron	Member, Defense Base Closure and Realignment Commission	01/08/93
Rebecca G. Cox	Member, Defense Base Closure and Realignment Commission	01/08/93
Hansford T. Johnson	Member, Defense Base Closure and Realignment Commission	01/08/93
Arthur Levitt Jr.	Member, Defense Base Closure and Realignment Commission	01/08/93
Harry C. McPherson Jr.	Member, Defense Base Closure and Realignment Commission	01/08/93
Robert D. Stuart Jr.	Member, Defense Base Closure and Realignment Commission	01/08/93
Total documented G.H.W. Bush recess appointments apparently made during intrasession recess		37

Source: Table created by CRS using data obtained from various volumes of the *Weekly Compilation of Presidential Documents* and from the Legislative Information System (LIS) nominations database. The LIS nominations database is available to the congressional community at <http://www.congress.gov/nomis/>. Similar information is available to the general public through the legislation information website of the Library of Congress, Thomas, at <http://www.thomas.gov/home/nomis.html>.

Note: This table is based on information collected from the sources specified above. Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. Consequently, although this table includes all specified recess appointments that have been documented by CRS to date, it may not include all specified recess appointments that actually occurred. Similarly, because precise appointment dates could not be verified in all instances, some intersession recess appointments may have been miscategorized as intrasession or vice versa, particularly where the date of action is close to the date of the convening of a new session of the Senate.

Table 5 identifies the documented recess appointments by President Bush that appear to have been made during intersession recesses. As explained above, if *Noel Canning* had been decided prior to his tenure in office, President Bush might have been precluded from making many of the recess appointments identified in this table. Specifically, appointments made to positions that were vacant prior to the start of the recess during which he made the appointment would not have been considered valid under *Noel Canning*. It is possible that had *Noel Canning* been decided prior to the Bush presidency, however, some Bush appointees might have elected to schedule their departures during intersession recesses in order to provide the President with the option of filling the resulting vacancy through recess appointment. Given limitations in publicly available data on precise vacancy dates, CRS was unable to determine which recess appointments might have been precluded by the ruling.

Table 5. Documented Recess Appointments by President George H.W. Bush Apparently Made During Intersession Recesses

Recess Appointee	Position	Date announced or appointed
John N. Erlenhorn	Board Member, Legal Services Corporation	11/30/89
J. Blakeley Hall	Board Member, Legal Services Corporation	11/30/89
Barbara E. Bryant	Director, Bureau of the Census	12/07/89
Dennis M. Devaney	Member, National Labor Relations Board	12/14/89

Recess Appointee	Position	Date announced or appointed
Clifford R. Oviatt Jr.	Member, National Labor Relations Board	12/14/89
Deane R. Hinton	Ambassador, Panama, Department of State	01/02/90
John F. Collins	Board Member, Legal Services Corporation	01/22/90
Howard H. Dana Jr.	Board Member, Legal Services Corporation	01/22/90
Luis Guinot Jr.	Board Member, Legal Services Corporation	01/22/90
Jo Betts Love	Board Member, Legal Services Corporation	01/22/90
Guy V. Molinari	Board Member, Legal Services Corporation	01/22/90
Penny L. Pullen	Board Member, Legal Services Corporation	01/22/90
Xavier L. Suarez	Board Member, Legal Services Corporation	01/22/90
George W. Wittgraf	Board Member, Legal Services Corporation	01/22/90
Jeanine E. Wolbeck	Board Member, Legal Services Corporation	01/22/90
Lawrence U. Costiglio	Director, Federal Housing Finance Board	12/12/90
Daniel F. Evans Jr.	Director (designated Chair), Federal Housing Finance Board	12/12/90
William C. Perkins	Director, Federal Housing Finance Board	12/12/90
Marilyn R. Seymann	Director, Federal Housing Finance Board	12/12/90
Howard H. Dana Jr.	Board Member, Legal Services Corporation	01/02/91
Luis Guinot Jr.	Board Member, Legal Services Corporation	01/02/91
J. Blakeley Hall	Board Member, Legal Services Corporation	01/02/91
William L. Kirk Jr.	Board Member, Legal Services Corporation	01/02/91
Jo Betts Love	Board Member, Legal Services Corporation	01/02/91
Guy V. Molinari	Board Member, Legal Services Corporation	01/02/91
Penny L. Pullen	Board Member, Legal Services Corporation	01/02/91
Thomas D. Rath	Board Member, Legal Services Corporation	01/02/91
Basile J. Uddo	Board Member, Legal Services Corporation	01/02/91
George W. Wittgraf	Board Member, Legal Services Corporation	01/02/91
Jeanine E. Wolbeck	Board Member, Legal Services Corporation	01/02/91
Evan J. Kemp Jr.	Member (designated Chairperson), Equal Employment Opportunity Commission	10/13/92
Lawrence S. Eagleburger	Secretary, Department of State	12/08/92
Pauline C. Naftzger	Alternate Representative, Executive Board, United Nations Children's Fund	12/08/92
Sean C. O'Keefe	Secretary, Department of the Navy	12/16/92
John N. Raudabaugh	Member, National Labor Relations Board	12/22/92
Brian C. Griffin	Chairperson, Administrative Conference	12/29/92
Robert F. Goodwin	Commissioner, International Joint Commission, United States and Canada	12/30/92
Stephen T. Hart	Assistant Secretary - Public Affairs, Department of Transportation	12/30/92
Norman D. Shumway	Board Member, Legal Services Corporation	12/30/92
David P. Prospero	Member, Corporation for Public Broadcasting	12/31/92

Recess Appointee	Position	Date announced or appointed
Gregory S. Walden	Member, Interstate Commerce Commission	01/04/93
Total documented G.H.W. Bush recess appointments apparently made during intersession recess		41

Source: Table created by CRS using data obtained from various volumes of the *Weekly Compilation of Presidential Documents* and from the Legislative Information System (LIS) nominations database. The LIS nominations database is available to the congressional community at <http://www.congress.gov/nomis/>. Similar information is available to the general public through the legislation information website of the Library of Congress, Thomas, at <http://www.thomas.gov/home/nomis.html>.

Note: This table is based on information collected from the sources specified above. Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. Consequently, although this table includes all specified recess appointments that have been documented by CRS to date, it may not include all specified recess appointments that actually occurred. Similarly, because precise appointment dates could not be verified in all instances, some intersession recess appointments may have been miscategorized as intrasession or vice versa, particularly where the date of action is close to the date of the convening of a new session of the Senate.

William J. Clinton Administration

Table 6 identifies intrasession recess appointments by President William. Had *Noel Canning* been decided prior to President Clinton's time in office, it appears that he would have been precluded from making any of these specific recess appointments.

Table 6. Intrasession Recess Appointments Made by President William Clinton

Recess Appointee	Position	Date appointed
William C. Brooks	Member, Social Security Advisory Board	01/19/96
Eileen B. Claussen	Assistant Secretary - Oceans and International Environmental and Scientific Affairs, Department of State	01/19/96
Robert F. Drinan	Member, Civil Liberties Public Education Fund	01/19/96
Peter B. Edelman	Assistant Secretary - Planning and Evaluation, Department of Health and Human Services	01/19/96
Sarah M. Fox	Member, National Labor Relations Board	01/19/96
Leo M. Goto	Member, Civil Liberties Public Education Fund	01/19/96
Susan Hayase	Member, Civil Liberties Public Education Fund	01/19/96
Charles A. Hunnicutt	Assistant Secretary - Aviation and International Affairs, Department of Transportation	01/19/96
Elsa H. Kudo	Member, Civil Liberties Public Education Fund	01/19/96
Yeiichi Kuwayama	Member, Civil Liberties Public Education Fund	01/19/96
Harlan Mathews	Member, Social Security Advisory Board	01/19/96
Dale Minami	Member, Civil Liberties Public Education Fund	01/19/96
Peggy A. Nagae	Member, Civil Liberties Public Education Fund	01/19/96
Don T. Nakanishi	Member, Civil Liberties Public Education Fund	01/19/96
Gerald M. Shea	Member, Social Security Advisory Board	01/19/96

Recess Appointee	Position	Date appointed
Gerald N. Tirozzi	Assistant Secretary - Elementary and Secondary Education, Department of Education	01/19/96
Robert C. Brown	Member, Metropolitan Washington Airport Authority	04/12/96
Daniel Guttman	Member, Occupational Safety and Health Review Commission	04/12/96
Elizabeth K. Julian	Assistant Secretary - Fair Housing, Department of Housing and Urban Development	04/12/96
Lowell L. Junkins	Member, Federal Agricultural Mortgage Corporation	04/12/96
Martin A. Kamarck	President (designated Chair), Export-Import Bank	04/12/96
Michael Kantor	Secretary, Department of Commerce	04/12/96
Yolanda T. Wheat	Member, National Credit Union Administration	04/12/96
Johnny H. Hayes	Member, Tennessee Valley Authority	05/31/96
Wyche Fowler Jr.	Ambassador, Saudi Arabia, Department of State	08/10/96
Heidi H. Schulman	Member, Corporation for Public Broadcasting	08/20/96
John E. Higgins	Member, National Labor Relations Board	08/30/96
Kevin L. Thurm	Deputy Secretary, Department of Health and Human Services	08/30/96
Mary L. Jordan	Member, Federal Mine Safety and Health Review Commission	08/31/96
James B. King	Director, Office of Personnel Management	04/06/97
Tadd Johnson	Chairperson, National Indian Gaming Commission	08/29/97
David G. Carpenter	Assistant Secretary - Director of Diplomatic Security and Office of Foreign Missions, Department of State	08/12/98
William L. Swing	Ambassador, Congo, Department of State	08/12/98
James C. Hormel	Ambassador, Luxembourg, Department of State	06/04/99
Mark R. Tucker	U.S. Marshal, Eastern District - North Carolina, Department of Justice	09/02/99
Sue Bailey	Administrator, National Highway Traffic Safety Administration	08/03/00
Arthur C. Campbell	Assistant Secretary - Economic Development, Department of Commerce	08/03/00
James A. Daley	Ambassador - Barbados, Antigua and Barbuda, Dominica, Grenada, St. Lucia, St. Kitts and Nevis, and St. Vincent and the Grenadines, Department of State	08/03/00
Robin C. Duke	Ambassador to Norway, Department of State	08/03/00
Sally Katzen	Deputy Director, Office of Management and Budget	08/03/00
Bill Lann Lee	Assistant Attorney General - Civil Rights, Department of Justice	08/03/00
Franz S. Leichter	Member, Federal Housing Finance Board	08/03/00
W. Michael McCabe	Deputy Administrator, Environmental Protection Agency	08/03/00
Randolph D. Moss	Assistant Attorney General - Office of Legal Counsel, Department of Justice	08/03/00
David W. Ogden	Assistant Attorney General - Civil Division, Department of Justice	08/03/00
Francisco J. Sanchez	Assistant Secretary - Aviation and International Affairs, Department of Transportation	08/03/00
Carl Spielvogel	Ambassador, Slovak Republic, Department of State	08/03/00
Ella Wong-Rusinko	Alternate Federal Co-Chair, Appalachian Regional Commission	08/03/00
George T. Frampton Jr.	Member (designated Chair), Council on Environmental Quality	08/04/00

Recess Appointee	Position	Date appointed
John D. Holum	Under Secretary - Arms Control and International Security Affairs, Department of State	08/04/00
Robert S. LaRussa	Under Secretary - International Trade, Department of Commerce	08/04/00
James C. Riley	Commissioner, Federal Mine Safety and Health Review Commission	08/31/00
Sarah L. Wilson	Judge, U.S. Court of Federal Claims	01/19/01
Total Clinton intrasession recess appointments		53

Source: Table created by CRS using data obtained from news releases from the archived White House websites for the Clinton presidency, which may be found at <http://www.clintonlibrary.gov/digital-library.html>. Data were also obtained from the White House Executive Clerk, during the Clinton Administration, from various volumes of the *Weekly Compilation of Presidential Documents*, and from the Legislative Information System (LIS) nominations database. The LIS nominations database is available to the congressional community at <http://www.congress.gov/nomis/>. Similar information is available to the general public through the legislation information website of the Library of Congress, Thomas, at <http://www.thomas.gov/home/nomis.html>.

Note: Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. This table is based on information collected from the sources specified above. This table includes all specified recess appointments that were documented by CRS and verified with the White House Executive Clerk during the Clinton Administration.

Table 7 identifies intersession recess appointments by President Clinton. As explained above, if *Noel Canning* had been decided prior to his tenure in office, President Clinton might have been precluded from making many of the recess appointments identified in this table. Specifically, appointments made to positions that were vacant prior to the start of the recess during which he made the appointment would not have been considered valid under *Noel Canning*. It is possible that had *Noel Canning* been decided prior to the Clinton presidency, however, some Clinton appointees might have elected to schedule their departures during intersession recesses in order to provide the President with the option of filling the resulting vacancy through recess appointment. Given limitations in publicly available data on precise vacancy dates, CRS was unable to determine which recess appointments might have been precluded by the ruling.

Table 7. Intersession Recess Appointments Made by President William Clinton

Recess Appointee	Position	Date appointed
John C. Truesdale	Member, National Labor Relations Board	01/24/94
John C. Truesdale	Member, National Labor Relations Board	12/23/94
Kathleen A. McGinty	Chairperson, Council on Environmental Quality	12/30/94
Robert T. Francis II	Member, National Transportation Safety Board	01/01/95
Donna H. Cunnigham	Chief Financial Officer, Corporation for National and Community Service	10/19/96
Karen Shepherd	U.S. Director, European Bank for Reconstruction and Development	10/19/96
Christine O.C. Miller	Judge, U.S. Court of Federal Claims	12/10/97
Richard W. Fisher	Deputy U.S. Trade Representative, Office of U.S. Trade Representative	12/16/97
Paul M. Igasaki	Member, Equal Employment Opportunity Commission	12/16/97
Kevin E. Marchman	Assistant Secretary - Public and Indian Housing, Department of Health and Human Services	12/16/97
Nancy E. Soderberg	Alternate U.S. Representative for Special Political Affairs, United Nations, Department of State	12/16/97

Recess Appointee	Position	Date appointed
Orson Swindle	Member, Federal Trade Commission	12/16/97
Mozelle W. Thompson	Member, Federal Trade Commission	12/16/97
Frederick L. Feinstein	General Counsel, National Labor Relations Board	10/22/98
Montie R. Deer	Chair, National Indian Gaming Commission	11/13/98
G. Edward DeSeve	Deputy Director, Office of Management and Budget	12/04/98
John C. Truesdale	Chairperson, National Labor Relations Board, National Labor Relations Board	12/04/98
Timothy F. Geithner	Under Secretary - International Affairs, Department of the Treasury	12/07/98
John D. Hawke Jr.	Comptroller of the Currency, Department of the Treasury	12/07/98
Edwin M. Truman	Assistant Secretary - International Affairs, Department of the Treasury	12/07/98
William Clyburn	Member, Surface Transportation Board	12/18/98
Albert S. Jacquez	Administrator, Saint Lawrence Seaway Development Corporation	12/18/98
Leonard R. Page	General Counsel, National Labor Relations Board	11/29/99
Janie L. Jeffers	Member, U.S. Parole Commission	12/09/99
Marie F. Ragghianti	Member, U.S. Parole Commission	12/09/99
Stuart E. Weisberg	Member, Occupational Safety and Health Review Commission	12/09/99
Sarah M. Fox	Member, National Labor Relations Board, National Labor Relations Board	12/17/99
Luis Lauredo	U.S. Permanent Representative to the Organization of American States, Department of State	12/22/99
Mark L. Schneider	Director, Peace Corps	12/22/99
Clifford G. Stewart	General Counsel, Equal Employment Opportunity Commission	12/22/99
Frank S. Holleman III	Deputy Secretary, Department of Education	12/28/99
James J. Hoecker	Member, Federal Energy Regulatory Commission	12/18/00
Susan Ness	Member, Federal Communications Commission	12/18/00
Julie E. Samuels	Director, National Institute of Justice, Department of Justice	12/20/00
James V. Aidala	Assistant Administrator - Prevention, Pesticides, and Toxic Substances, Environmental Protection Agency	12/21/00
James A. Dorskind	General Counsel, Department of Commerce	12/21/00
Michael V. Dunn	Member, Farm Credit Administration	12/21/00
Gregory M. Frazier	Chief Agricultural Negotiator, Office of U.S. Trade Representative	12/21/00
Elwood Holstein Jr.	Assistant Secretary - Oceans and Atmosphere, National Oceanic and Atmospheric Administration, Department of Commerce	12/21/00
Arthenia L. Joyner	Member, Federal Aviation Management Advisory Council, Department of Transportation	12/21/00
Edwin A. Levine	Assistant Administrator - Environmental Information, Environment Protection Agency	12/21/00
David Z. Plavin	Member, Federal Aviation Management Advisory Council, Dept. of Transportation	12/21/00
Kenneth L. Smith	Assistant Secretary - Fish, Wildlife, and Parks, Department of the Interior	12/21/00
George Darden	Member, Overseas Private Investment Corporation	12/22/00

Recess Appointee	Position	Date appointed
Fred P. DuVal	Chair, Inter-American Foundation	12/22/00
Anita Perez Ferguson	Chair, Inter-American Foundation	12/22/00
Miguel D. Lausell	Member, Overseas Private Investment Corporation	12/22/00
Beth S. Slavet	Chair, Merit Systems Protection Board	12/22/00
Shibley Telhami	Member, U.S. Institute of Peace	12/22/00
Toni G. Fay	Board Member, Corporation for National and Community Service	12/27/00
Roger Gregory	Judge, U.S. Court of Appeals for the Fourth Circuit	12/27/00
Judith A. Winston	Under Secretary, Department of Education	12/27/00
Allan I. Mendelowitz	Member (designated Chair), Federal Housing Finance Board	12/28/00
Barbara J. Sapin	Vice Chair, Merit Systems Protection Board	12/28/00
Nina M. Archabal	Member, National Council on the Humanities	12/29/00
Geoff Bacino	Member, National Credit Union Administration	12/29/00
Betty G. Bengtson	Member, National Council on the Humanities	12/29/00
Ron Chew	Member, National Council on the Humanities	12/29/00
James F. Dobbins	Assistant Secretary - European Affairs, Department of State	12/29/00
Bill Duke	Member, National Council on the Humanities	12/29/00
Donald L. Fixico	Member, National Council on the Humanities	12/29/00
Henry Glassie	Member, National Council on the Humanities	12/29/00
Paulette H. Holahan	Member, National Commission on Libraries and Information Science	12/29/00
Mary D. Hubbard	Member, National Council on the Humanities	12/29/00
Timothy E. Jones	Member, U.S. Parole Commission	12/29/00
Marilyn G. Mason	Member, National Commission on Libraries and Information Science	12/29/00
Naomi Shihab Nye	Member, National Council on the Humanities	12/29/00
Donald L. Robinson	Member, National Commission on Libraries and Information Science	12/29/00
Peter F. Romero	Assistant Secretary - Western Hemisphere Affairs, Department of State	12/29/00
Vicki L. Ruiz	Member, National Council on the Humanities	12/29/00
Islam A. Siddiqui	Under Secretary - Marketing and Regulatory Programs, Department of Agriculture	12/29/00
Isabel C. Stewart	Member, National Council on the Humanities	12/29/00
Dennis P. Walsh	Member, National Labor Relations Board	12/29/00
James H. Atkins	Member (designated Chair), Federal Retirement Thrift Investment Board	01/03/01
Allen Carrier	Member, Board of Trustees, Institute of American Indian and Alaska Native Culture and Arts Development	01/03/01
Edward Correia	Member, National Council on Disability	01/03/01
Dennis M. Devaney	Member, U.S. International Trade Commission	01/03/01
Ross E. Eisenbrey	Member, Occupational Safety and Health Review Commission	01/03/01
Jayne G. Fawcett	Member, Board of Trustees, Institute of American Indian and Alaska Native Culture and Arts Development	01/03/01

Recess Appointee	Position	Date appointed
Hsin-Ming Fung	Member, National Council on the Arts	01/03/01
John R. Lacey	Chair, Foreign Claims Settlement Commission	01/03/01
Robert M. Lyford	Member, Overseas Private Investment Corporation	01/03/01
Sheryl R. Marshall	Member, Federal Retirement Thrift Investment Board	01/03/01
Laramie F. McNamara	Member, Foreign Claims Settlement Commission	01/03/01
Gerald S. Segal	Member, National Council on Disability	01/03/01
Yolanda T. Wheat	Chair, National Credit Union Administration	01/03/01
Total Clinton intersession recess appointments		86

Source: Table created by CRS using data obtained from news releases from the archived White House websites for the Clinton presidency, which may be found at <http://www.clintonlibrary.gov/digital-library.html>. Data were also obtained from the White House Executive Clerk, during the Clinton Administration, from various volumes of the *Weekly Compilation of Presidential Documents*, and from the Legislative Information System (LIS) nominations database. The LIS nominations database is available to the congressional community at <http://www.congress.gov/nomis/>. Similar information is available to the general public through the legislation information website of the Library of Congress, Thomas, at <http://www.thomas.gov/home/nomis.html>.

Note: Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. This table is based on information collected from the sources specified above. This table includes all specified recess appointments that were documented by CRS and verified with the White House Executive Clerk during the Clinton Administration.

George W. Bush Administration

Table 8 identifies intrasession recess appointments made by President George W. Bush. Had *Noel Canning* been decided prior to President Bush's time in office, it appears that he would have been precluded from making any of these specific recess appointments.

Table 8. Intrasession Recess Appointments Made by President George W. Bush

Recess Appointee	Position	Date appointed
Peter J. Hurtgen	Member (designated Chair), National Labor Relations Board	08/31/01
Emil H. Frankel	Assistant Secretary - Transportation Policy, Department of Transportation	03/29/02
Gerald Reynolds	Assistant Secretary - Civil Rights, Department of Education	03/29/02
Dennis L. Schornack	Commissioner on the Part of the United States, International Joint Commission, United States and Canada	03/29/02
Jeffrey Shane	Associate Deputy Secretary, Department of Transportation	03/29/02
Michael E. Toner	Member, Federal Election Commission	03/29/02
Albert Casey	Governor, United States Postal Service	08/06/02
Thomas C. Dorr	Board Member, Commodity Credit Corporation	08/06/02
Thomas C. Dorr	Under Secretary - Rural Development, Department of Agriculture	08/06/02
Cheryl F. Halpern	Board Member, Corporation for Public Broadcasting	08/06/02
Tony Hammond	Commissioner, Postal Rate Commission	08/06/02
Susanne T. Marshall	Chair, Merit Systems Protection Board	08/06/02

Recess Appointee	Position	Date appointed
W. Scott Railton	Member (designated Chair), Occupational Safety and Health Review Commission	08/06/02
Lillian R. BeVier	Board Member, Legal Services Corporation	04/22/03
Naomi C. Earp	Member (designated Vice Chair), Equal Employment Opportunity Commission	04/22/03
Peter Eide	General Counsel, Federal Labor Relations Authority	04/22/03
April H. Foley	Board Member, Export-Import Bank	04/22/03
Thomas A. Fuentes	Board Member, Legal Services Corporation	04/22/03
R. Bruce Matthews	Member, Defense Nuclear Facilities Safety Board	04/22/03
Neil McPhie	Member (designated Vice Chair), Merit Systems Protection Board	04/22/03
James C. Miller III	Governor, United States Postal Service	04/22/03
William A. Schambra	Board Member, Corporation for National and Community Service	04/22/03
Stanley C. Suboleski	Member, Federal Mine Safety and Health Review Commission	04/22/03
Donna N. Williams	Board Member, Corporation for National and Community Service	04/22/03
A. Paul Anderson	Member, Federal Maritime Commission	08/22/03
Ephraim Batambuze	Board Member, African Development Foundation	08/22/03
David W. Fleming	Member (public), Board of Trustees of the James Madison Memorial Fellowship Foundation	08/22/03
Jose A. Fourquet	Board Member (government representative), Inter-American Foundation	08/22/03
Adolfo A. Franco	Board Member (government representative), Inter-American Foundation	08/22/03
Jay P. Greene	Member (academic), Board of Trustees of the James Madison Memorial Fellowship Foundation	08/22/03
Walter H. Kansteiner	Board Member, African Development Foundation	08/22/03
Charlotte A. Lane	Member, United States International Trade Commission	08/22/03
Patrick L. McCrory	Member, Board of Trustees of the Harry S. Truman Scholarship Foundation	08/22/03
Roger F. Noriega	Board Member (government representative), Inter-American Foundation	08/22/03
Daniel Pearson	Member, United States International Trade Commission	08/22/03
John R. Petrocik	Member (academic), Board of Trustees of the James Madison Memorial Fellowship Foundation	08/22/03
Daniel Pipes	Board Member, United States Institute of Peace	08/22/03
Juanita A. Vasquez-Gardner	Member, Board of Trustees of the Harry S. Truman Scholarship Foundation	08/22/03
John P. Woodley Jr.	Assistant Secretary - Civil Works, Department of the Army	08/22/03
William H. Pryor	Judge, U.S. Court of Appeals for the Eleventh Circuit	02/20/04
Linda M. Combs	Assistant Secretary - Budget and Programs, Department of Transportation	04/16/04
Linda M. Conlin	Board Member, Export-Import Bank	04/16/04
Eugene Hickok	Deputy Secretary, Department of Education	04/16/04
Edward R. McPherson	Under Secretary, Department of Education	04/18/04
Romolo A. Bernardi	Deputy Secretary, Department of Housing and Urban Development	05/28/04

Recess Appointee	Position	Date appointed
Edward Brehm	Board Member (designated Chair), African Development Foundation	05/28/04
Charles Johnson	Chief Financial Officer, Environmental Protection Agency	05/28/04
Ann R. Klee	Assistant Administrator (General Counsel), Environmental Protection Agency	05/28/04
Adam M. Lindemann	Member, Advisory Board for Cuba Broadcasting	05/28/04
Cathy M. MacFarlane	Assistant Secretary - Public Affairs, Department of Housing and Urban Development	05/28/04
Dennis C. Shea	Assistant Secretary - Policy Development and Research, Department of Housing and Urban Development	05/28/04
Kiron K. Skinner	Member, National Security Education Board	05/28/04
Deborah A. Spagnoli	Commissioner, U.S. Parole Commission	05/28/04
Kirk Van Tine	Deputy Secretary, Department of Transportation	05/28/04
Juanita A. Vasquez-Gardner	Member, Board of Trustees of the Harry S. Truman Scholarship Foundation	05/28/04
Sue Ellen Wooldridge	Solicitor, Department of the Interior	05/28/04
Michael D. Gallagher	Assistant Secretary - Communications and Information, Department of Commerce	07/02/04
Floyd Hall	Member, Reform Board (Amtrak)	07/02/04
Theodore W. Kassinger	Deputy Secretary, Department of Commerce	07/02/04
Jack E. McGregor	Member - Advisory Board, Saint Lawrence Seaway Development Corporation	07/02/04
Carin M. Barth	Chief Financial Officer, Department of Housing and Urban Development	08/02/04
Jonathan W. Dudas	Under Secretary - Intellectual Property and Director of the U.S. Patent and Trademark Office, Department of Commerce	08/02/04
Albert A. Frink Jr.	Assistant Secretary - Manufacturing and Services, Department of Commerce	08/02/04
Susan J. Grant	Chief Financial Officer, Department of Energy	08/02/04
Ricardo H. Hinojosa	Chair, United States Sentencing Commission	08/02/04
Nadine Hogan	Board Member (private representative) (designated Vice Chair), Inter-American Foundation	08/02/04
Stephen L. Johnson	Deputy Administrator, Environmental Protection Agency	08/02/04
Paul Jones	Member, Internal Revenue Service Oversight Board	08/02/04
James R. Kunder	Assistant Administrator - Bureau for Asia and the Near East, U.S. Agency for International Development	08/02/04
John D. Rood	Ambassador, Commonwealth of the Bahamas, Department of State	08/02/04
Enrique J. Sosa	Member, Reform Board (Amtrak)	08/02/04
Charles G. Untermeyer	Ambassador, State of Qatar, Department of State	08/02/04
Jack Vaughn	Board Member (private representative), Inter-American Foundation	08/02/04
Gary L. Visscher	Member, Chemical Safety and Hazard Investigation Board	08/02/04
Richard K. Wagner	Member - Advisory Board, National Institute for Literacy	08/02/04
Scott K. Walker	Member - Advisory Board, Saint Lawrence Seaway Development Corporation	08/02/04

Recess Appointee	Position	Date appointed
Roger W. Wallace	Board Member (private representative) (designated Chair), Inter-American Foundation	08/02/04
Aldona Wos	Ambassador, Republic of Estonia, Department of State	08/02/04
Deborah P. Majoras	Commissioner (designated Chair), Federal Trade Commission	08/16/04
Jon D. Leibowitz	Commissioner, Federal Trade Commission	09/01/04
Carolyn L. Gallagher	Governor, United States Postal Service	11/03/04
Louis J. Giuliano	Governor, United States Postal Service	11/03/04
Adolfo A. Franco	Board Member (government representative), Inter-American Foundation	01/19/05
Gregory B. Jaczko	Member, Nuclear Regulatory Commission	01/19/05
Peter B. Lyons	Member, Nuclear Regulatory Commission	01/19/05
Roger F. Noriega	Board Member (government representative), Inter-American Foundation	01/19/05
James H. Bilbray	Member, Defense Base Closure and Realignment Commission	04/01/05
Philip Coyle	Member, Defense Base Closure and Realignment Commission	04/01/05
Harold W. Gehman Jr.	Member, Defense Base Closure and Realignment Commission	04/01/05
James V. Hansen	Member, Defense Base Closure and Realignment Commission	04/01/05
James T. Hill	Member, Defense Base Closure and Realignment Commission	04/01/05
Lloyd W. Newton	Member, Defense Base Closure and Realignment Commission	04/01/05
Anthony J. Principi	Member (designated Chair), Defense Base Closure and Realignment Commission	04/01/05
Samuel K. Skinner	Member, Defense Base Closure and Realignment Commission	04/01/05
Sue Ellen Turner	Member, Defense Base Closure and Realignment Commission	04/01/05
Michael W. Wynne	Under Secretary - Acquisition, Technology and Logistics, Department of Defense	04/01/05
John R. Bolton	Representative of the U.S. to the United Nations, Department of State	08/01/05
John R. Bolton	Representative of the U.S. in the United Nations Security Council, Department of State	08/01/05
John R. Bolton	Representative of the U.S. to Sessions of the United Nations General Assembly, Department of State	08/01/05
Peter C. W. Flory	Assistant Secretary - International Security Policy, Department of Defense	08/02/05
Eric S. Edelman	Under Secretary - Policy, Department of Defense	08/09/05
Alice S. Fisher	Assistant Attorney General - Criminal Division, Department of Justice	08/31/05
Peter Schaumber	Member, National Labor Relations Board	08/31/05
Gordon England	Deputy Secretary, Department of Defense	01/04/06
Stephen Goldsmith	Board Member, Corporation for National and Community Service	01/04/06
Floyd Hall	Member, Reform Board (Amtrak)	01/04/06
Tracy A. Henke	Executive Director, Office of State and Local Government Coordination and Preparedness, Department of Homeland Security	01/04/06
Nadine Hogan	Board Member (private representative) (designated Vice Chair), Inter-American Foundation	01/04/06
Peter N. Kirsanow	Member, National Labor Relations Board	01/04/06

Recess Appointee	Position	Date appointed
Robert D. Lenhard	Member, Federal Election Commission	01/04/06
Ronald E. Meisburg	General Counsel, National Labor Relations Board	01/04/06
Julie L. Myers	Assistant Secretary - Bureau of Immigration and Customs Enforcement, Department of Homeland Security	01/04/06
Benjamin A. Powell	General Counsel, Office of the Director of National Intelligence	01/04/06
Arthur F. Rosenfeld	Director, Federal Mediation and Conciliation Service	01/04/06
Ellen R. Sauerbrey	Assistant Secretary - Population, Refugees, and Migration, Department of State	01/04/06
Dorrance Smith	Assistant Secretary - Public Affairs, Department of Defense	01/04/06
Enrique J. Sosa	Member, Reform Board (Amtrak)	01/04/06
Hans von Spakovsky	Member, Federal Election Commission	01/04/06
Roger W. Wallace	Member (private representative) (designated Chair), Inter-American Foundation	01/04/06
Steven T. Walther	Member, Federal Election Commission	01/04/06
John Gardner	Governor, United States Postal Service	01/05/06
Steven K. Mullins	U.S. Attorney, District of South Dakota, Department of Justice	01/09/06
C. Boyden Gray	Ambassador, European Union, Department of State	01/17/06
Dennis P. Walsh	Member, National Labor Relations Board	01/17/06
John L. Palmer	Member, Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund	04/19/06
John L. Palmer	Member, Board of Trustees of the Federal Hospital Insurance Trust Fund	04/19/06
John L. Palmer	Member, Board of Trustees of the Supplementary Medical Insurance Trust Fund	04/19/06
Thomas R. Saving	Member, Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund	04/19/06
Thomas R. Saving	Member, Board of Trustees of the Federal Hospital Insurance Trust Fund	04/19/06
Thomas R. Saving	Member, Board of Trustees of the Supplementary Medical Insurance Trust Fund	04/19/06
Bertha K. Madras	Deputy Director, Demand Reduction, Office of National Drug Control Policy	04/19/06
James F.X. O'Gara	Deputy Director, Supply Reduction, Office of National Drug Control Policy	04/19/06
Paul DeCamp	Administrator - Wage and Hour Division, Department of Labor	08/31/06
Michael F. Duffy	Member, Federal Mine Safety and Health Review Commission	08/31/06
Daniel Meron	General Counsel, Department of Health and Human Services	08/31/06
Richard E. Stickler	Assistant Secretary - Mine Safety and Health, Department of Labor	10/19/06
Jeffrey R. Brown	Member, Social Security Advisory Board	10/19/06
Andrew G. Biggs	Deputy Commissioner, Social Security Administration	04/04/07
Susan E. Dudley	Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget	04/04/07
Sam Fox	Ambassador, Belgium, Department of State	04/04/07

Recess Appointee	Position	Date appointed
Carol W. Pope	Member, Federal Labor Relations Authority	04/04/07
Total G.W. Bush intrasession recess appointments		141

Source: Table created by CRS using data obtained from news releases from the archived White House website for the Bush presidency, which may be found at <http://georgewbush-whitehouse.archives.gov/>. Data were also obtained from the White House Executive Clerk, during the Bush Administration, from various volumes of the *Weekly Compilation of Presidential Documents*, and from the Legislative Information System (LIS) nominations database. The LIS nominations database is available to the congressional community at <http://www.congress.gov/nomis/>. Similar information is available to the general public through the legislation information website of the Library of Congress, Thomas, at <http://www.thomas.gov/home/nomis.html>.

Note: Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. This table is based on information collected from the sources specified above. This table includes all specified recess appointments that were documented by CRS and verified with the White House Executive Clerk during the Bush Administration.

Table 9 identifies intersession recess appointments made by President Bush. As explained above, if *Noel Canning* had been decided prior to his tenure in office, President Bush might have been precluded from making many of the recess appointments identified in this table. Specifically, appointments made to positions that were vacant prior to the start of the recess during which he made the appointment would not have been considered valid under *Noel Canning*. It is possible that had *Noel Canning* been decided prior to the Bush presidency, however, some Bush appointees might have elected to schedule their departures during intersession recesses in order to provide the President with the option of filling the resulting vacancy through recess appointment. Given limitations in publicly available data on precise vacancy dates, CRS was unable to determine which recess appointments might have been precluded by the ruling.

Table 9. Intersession Recess Appointments Made by President George W. Bush

Recess Appointee	Position	Date appointed
John Magaw	Under Secretary - Security, Department of Transportation	01/07/02
Otto J. Reich	Assistant Secretary - Western Hemisphere Affairs, Department of State	01/11/02
Eugene Scalia	Solicitor, Department of Labor	01/11/02
Michael J. Bartlett	Member, National Labor Relations Board	01/22/02
William B. Cowen	Member, National Labor Relations Board	01/22/02
Cynthia A. Glassman	Member, Securities and Exchange Commission	01/22/02
Isaac C. Hunt Jr.	Member, Securities and Exchange Commission	01/22/02
JoAnn Johnson	Board Member, National Credit Union Administration	01/22/02
Deborah Matz	Board Member, National Credit Union Administration	01/22/02
Ellen L. Weintraub	Member, Federal Election Commission	12/06/02
Bradley D. Belt	Member, Social Security Advisory Board	12/23/03
Cynthia Boich	Board Member, Corporation for National and Community Service	12/23/03
Albert Casey	Governor, United States Postal Service	12/23/03
Clark K. Ervin	Inspector General, Department of Homeland Security	12/23/03
Gay Hart Gaines	Board Member, Corporation for Public Broadcasting	12/23/03
Dorothy A. Johnson	Board Member, Corporation for National and Community Service	12/23/03
Robert Lerner	Commissioner - Education Statistics, Department of Education	12/23/03

Recess Appointee	Position	Date appointed
Henry Lozano	Board Member, Corporation for National and Community Service	12/23/03
Ronald E. Meisburg	Member, National Labor Relations Board	12/23/03
Claudia Puig	Board Member, Corporation for Public Broadcasting	12/23/03
Fayza V. B. Rodman	Member, Broadcasting Board of Governors	12/23/03
Raymond Simon	Assistant Secretary - Elementary and Secondary Education, Department of Education	12/23/03
Charles W. Pickering	Judge, U.S. Court of Appeals for the Fifth Circuit	01/16/04
Ronald Rosenfeld	Director (designated Chair), Federal Housing Finance Board	12/14/04
Dabney L. Friedrich	Member, United States Sentencing Commission	12/12/06
Beryl A. Howell	Member, United States Sentencing Commission	12/12/06
John R. Steer	Member (designated Vice Chair), United States Sentencing Commission	12/12/06
Warren Bell	Board Member, Corporation for Public Broadcasting	12/20/06
Wayne C. Beyer	Member, Federal Labor Relations Authority	12/20/06
Mark McKinnon	Member, Broadcasting Board of Governors	12/20/06
Total G.W. Bush intersession recess appointments		30

Source: Table created by CRS using data obtained from news releases from the archived White House website for the Bush presidency, which may be found at <http://georgewbush-whitehouse.archives.gov/>. Data were also obtained from the White House Executive Clerk, during the Bush Administration, from various volumes of the *Weekly Compilation of Presidential Documents*, and from the Legislative Information System (LIS) nominations database. The LIS nominations database is available to the congressional community at <http://www.congress.gov/nomis/>. Similar information is available to the general public through the legislation information website of the Library of Congress, Thomas, at <http://www.thomas.gov/home/nomis.html>.

Note: Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. This table is based on information collected from the sources specified above. This table includes all specified recess appointments that were documented by CRS and verified with the White House Executive Clerk during the Bush Administration.

Barack Obama Administration

Table 10 identifies recess appointments by President Barack Obama that appear to have been made during intrasession recesses. Had *Noel Canning* been decided prior to President Obama's time in office, it appears that he would have been precluded from making any of these specific recess appointments.

Table 10. Recess Appointments by President Barack Obama Apparently Made During Intrasession Recesses

Recess Appointee	Position	Date announced
Jeffrey A. Goldstein	Under Secretary - Domestic Finance, Department of the Treasury	03/27/10
Michael F. Mundaca	Assistant Secretary - Tax Policy, Department of the Treasury	03/27/10
Eric L. Hirschhorn	Under Secretary - Export Administration, Department of Commerce	03/27/10
Michael W. Punke	Deputy U.S. Trade Representative - Geneva, Office of the U.S. Trade Representative	03/27/10

Recess Appointee	Position	Date announced
Francisco J. Sanchez	Under Secretary - International Trade, Department of Commerce	03/27/10
Islam A. Siddiqui	Chief Agricultural Negotiator, Office of the U.S. Trade Representative	03/27/10
Alan D. Bersin	Commissioner of U.S. Customs and Border Protection, Department of Homeland Security	03/27/10
Jill L. Thompson	Member, Farm Credit Administration	03/27/10
Rafael Borrás	Under Secretary - Management, Department of Homeland Security	03/27/10
Craig Becker	Member, National Labor Relations Board	03/27/10
Mark G. Pearce	Member, National Labor Relations Board	03/27/10
Jacqueline A. Berrien	Member (designated Chair), Equal Employment Opportunity Commission	03/27/10
Chai R. Feldblum	Member, Equal Employment Opportunity Commission	03/27/10
Victoria A. Lipnic	Member, Equal Employment Opportunity Commission	03/27/10
P. David Lopez	General Counsel, Equal Employment Opportunity Commission	03/27/10
Donald M. Berwick	Administrator of the Centers for Medicare and Medicaid Services, Department of Health and Human Services	07/07/10
Philip E. Coyle III	Associate Director for National Security and International Affairs, Office of Science and Technology Policy	07/07/10
Joshua Gotbaum	Director, Pension Benefit Guaranty Corporation	07/07/10
Mari C. Aponte	Chief of Mission, El Salvador, Department of State	08/19/10
Elisabeth A. Hagen	Under Secretary - Food Safety, Department of Agriculture	08/19/10
Winslow L. Sargeant	Chief Counsel for Advocacy, Small Business Administration	08/19/10
Richard Sorian	Assistant Secretary - Public Affairs, Department of Health and Human Services	08/19/10
Richard Cordray	Director, Bureau of Consumer Financial Protection	01/04/12
Sharon Block *	Member, National Labor Relations Board	01/04/12
Terence F. Flynn *	Member, National Labor Relations Board	01/04/12
Richard Griffin Jr. *	Member, National Labor Relations Board	01/04/12
Total Obama recess appointments apparently made during intrasession recess		26

Source: Table created by CRS using data from the *Daily Compilation of Presidential Documents*, available at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CPD>; the Senate nominations database of the Legislative Information System, available to the congressional community at <http://www.congress.gov/nomis/>; and news releases from the Obama Administration White House website, at <http://www.whitehouse.gov>.

Note: Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. This table is based on information collected from the sources specified above. The Obama Administration appears to have consistently announced the President's recess appointments on the White House website, and these actions have been a matter of considerable public interest and attention. Consequently, the data presented in this table is thought to identify all of President Obama's intrasession recess appointments. Attempts to verify the precise dates of these appointments with the White House Executive Clerk were unsuccessful, however, so the dates the recess appointments were announced are provided.

* In *Noel Canning v. National Labor Relations Board*, the U.S. Court of Appeals for the District of Columbia Circuit held that these three appointments were made in contravention of the Recess Appointments Clause of the U.S. Constitution.

Table 11 identifies the recess appointments by President Obama that appear to have been made during intersession recesses. As explained above, if *Noel Canning* had been decided prior to these appointments,

President Obama might have been precluded from making some of the recess appointments identified in this table. Specifically, appointments made to positions that were vacant prior to the start of the recess during which he made the appointment would not have been considered valid under *Noel Canning*. It is possible that had *Noel Canning* been decided prior to the beginning of the Obama presidency, however, some Obama appointees might have elected to schedule their departures during intersession recesses in order to provide the President with the option of filling the resulting vacancy through recess appointment. Given limitations in publicly available data on precise vacancy dates, CRS was unable to determine which recess appointments might have been precluded by the ruling.

Table 11. Recess Appointments by President Barack Obama Apparently Made During Intersession Recesses

Recess Appointee	Position	Date announced
James M. Cole	Deputy Attorney General, Department of Justice	12/29/10
William J. Boorman	Public Printer, Government Printing Office	12/29/10
Robert S. Ford	Chief of Mission, Syrian Arab Republic, Department of State	12/29/10
Francis J. Ricciardone Jr.	Chief of Mission, Turkey, Department of State	12/29/10
Matthew J. Bryza	Chief of Mission, Azerbaijan, Department of State	12/29/10
Norman L. Eisen	Chief of Mission, Czech Republic, Department of State	12/29/10
Total Obama recess appointments apparently made during intersession recess		6

Source: Table created by CRS using data from the *Daily Compilation of Presidential Documents*, available at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CPD>; the Senate nominations database of the Legislative Information System, available to the congressional community at <http://www.congress.gov/nomis/>; and news releases from the Obama Administration White House website, at <http://www.whitehouse.gov>.

Note: Comprehensive information about recess appointments and the precise dates on which they occurred is not publicly available. This table is based on information collected from the sources specified above. The Obama Administration appears to have consistently announced the President's recess appointments on the White House website, and these actions have been a matter of considerable public interest and attention. Consequently, the data presented in this table is thought to identify all of President Obama's intersession recess appointments. Attempts to verify the precise dates of these appointments with the White House Executive Clerk were unsuccessful, however, so the dates the recess appointments were announced are provided.