



## Clash of co-equals: Republican-led Congress checks Trump's power

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Before leaving Washington on Thursday afternoon for the rest of the month of August, the Senate sent a message to the White House that they were going to keep the lights on in the Capitol and keep a watchful eye on President Donald Trump to block him from making any recess appointments.

The Senate's decision to not formally recess followed a week of other extraordinary actions by Congress to limit the president's power, something that is extremely unusual when one party controls Congress and the White House. But far from demonstrating how dysfunctional Washington is, lawmakers and experts argued that the recent GOP challenges to the president's authority show the American government working as it was designed.

After approving 70 White House nominees and providing funding for the Food and Drug Administration, Sen. Lisa Murkowski (R-Alaska) received unanimous consent approving an August recess schedule requiring a member of the Senate to check in every three days.

These pro forma sessions are not uncommon and usually last a few seconds. (Sen. Robert Byrd of West Virginia holds the record for the quickest pro forma session which lasted 0.06 seconds.) More recently, though, the majority party in Congress has used these sessions as a political tool to block recess appointments by a president of the opposite party.

"It's very unusual for us to have pro forma sessions when the party that controls the Congress also controls the White House," Sen. Ben Cardin (D-Md.) observed on Friday. "But I think it shows a concern that President Trump may use this time to replace the attorney general and appoint a new attorney general."

In the weeks leading up to the August break, rumors swirled around Washington that Donald Trump was preparing to fire Attorney General Jeff Sessions and make a recess appointment. Republicans and Democrats became increasingly unnerved, particularly in the wake of Trump firing his FBI director in May and a series staff shake-ups at the White House.

Ben Sasse, a Republican senator from Nebraska, warned Donald Trump from the floor of the Senate last week, "If you're thinking of making a recess appointment to push out the attorney general, forget about it."

Republican Sen. Lindsey Graham (S.C.) put it even more bluntly telling reporters if Sessions is fired, "there will be holy hell to pay."

Senate Majority Leader Mitch McConnell (R-Ky.) gave no indication that the pro forma sessions were being held specifically to block Trump from making recess appointments. But the Senate has kept the lights on since January, checking in every three days even when they are supposed to be in recess.

Gene Healy, vice president of the libertarian Cato Institute, noted that far from demonstrating dysfunction in Washington, the steps Congress has taken to keep watch and prevent any presidential overreach shows the government is working the way it was designed. As James Madison would say, with ambition made to counteract ambition.

"It's an appropriate level of distrust," Healy explained.

What is unusual about the current dynamic, he added is "to have this much bipartisan support at this stage in any presidency for preventing the president from overreaching ... It's pretty clear that members of Trump's own party are disturbed by what has happened in the last six months."

Pro forma sessions, Congress' version of sleeping with one eye open, are a tactic used more frequently in modern politics as a way for Congress to "defend its turf," Healy said.

Starting in 2007, Senate Democrats regained control of the chamber and refused to recess until the end President George W. Bush's term. This, after he used the congressional recess to make a number of controversial appointments.

Republicans kept the lights on under Barack Obama, who wound up making a number of appointments to the National Labor Relations Board during a pro forma session. This ended poorly for the president with a Supreme Court showdown in 2014. The Court ruled 8 to 0 against the presidential power grab.

This week, Congress went even further to check the president's power.

On Thursday, two bipartisan bills were introduced to deter Trump from trying to fire Robert Mueller, the special counsel in charge of the Russia investigation. Both bills would allow for a judicial review of any decision to fire Mueller and would also give authority to the Judicial Branch to reinstate Mueller if he were dismissed.

Those measures were introduced just days after Congress sent a sanctions bill to Trump's desk with a veto-proof majority. The bill, which the president denounced as having "clearly unconstitutional provisions," prevent Trump from lifting economic sanctions on Russia without first seeking permission from Congress.

Through this series of actions, the Republican-controlled Congress has sent a "powerful statement" to the Republican president, said Allan Lichtman, political historian at American University and author of 'The Case for Impeachment.'

"We really haven't seen anything like this since the Nixon era."

Mark Harkins, senior fellow at Georgetown University, noted that the kick-back from the Congress is a kind of wake-up call for a president who spent his entire career in the private sector as the chief executive officer and chairman of the board.

"It's almost as if he believes that he is the chairman of this board," Harkins noted, and he is treating the other branches of government "almost like subcontractors."

"The problem is, the legislative and judicial branches are not subcontractors, and I think he's coming to find that they have some bite of their own," he said.

Trump has found himself in a difficult position with his Republican counterparts, especially as they return to their districts for the next four weeks with few accomplishments. During the first six months of the Trump presidency, Congress has failed to deliver on a legislative agenda that the American people largely favored when they gave Republicans control over the government.

The effort to repeal and replace "Obamacare" took up months of the 115th Congress and ultimately failed last week. That long fight for health care pushed back the GOP plans to tackle tax reform, infrastructure spending and trade issues, on top of the pressing business of passing a budget to fund the federal government.

On a daily basis, Republicans in Congress face questions from reporters about President Trump's tweets, his personnel decisions and any number of other controversies occurring on the opposite end of Pennsylvania Avenue.

Rather than defend Trump, members of his own party like Sens. Jeff Flake, John McCain, Lindsey Graham, Susan Collins and Lisa Murkowski, have distanced themselves from a president whose approval ratings are now hovering below 40 percent.

Because of the system of checks and balances, there is very little Trump can do overcome the roadblocks members of his own party have put in place.

"He's boxed in," Lichtman said. He was essentially forced to sign the Russian sanctions bill or face a potentially embarrassing veto override in Congress. He cannot make any recess appointments, and if either of the bills to defend the special counsel gets traction, he'll be further "penned in."

Lichtman expects President Trump will chafe under the constraints his own party has imposed on him, given his past career experience.

"He still thinks it's the Trump Organization," he charged. "And he's learning pretty quickly that's not how the American government works. You're head of one branch of government, you're not CEO of the entire government."