

NLRB will continue to enforce labor law despite court ruling

WASHINGTON, D.C. (PAI) — The National Labor Relations Board (NLRB) will continue to issue rulings enforcing the nation's labor law, despite a Jan. 25 federal appeals court ruling saying President Barack Obama illegally appointed three of its members and that a case they ruled on should be thrown out.

The judges, all Republican ap-

pointees, also ruled the NLRB doesn't have a quorum. Their decision, if it stands, tosses the agency into a legal limbo where it can't decide labor-management disputes because it lacks a quorum to do so.

NLRB Chairman Mark Pearce responded that the judges' ruling applies to just one case. The NLRB will consult with the Justice Department about

whether and where to appeal the court ruling, but that decision "may be up to the Justice Department," added NLRB Communications Director Nancy Clelland.

"The Board respectfully disagrees with the decision and believes the president's position in the matter will ultimately be upheld," Pearce said. "This order applies to only one specific case, Noel Canning, and similar questions have been raised in more than a dozen cases pending in other courts of appeals.

"In the meantime, the Board has important work to do," he added. Unions, workers and companies "who come to us seek and expect careful consideration and resolution of their cases, and for that reason, we will continue to perform our statutory duties and issue decisions."

Union leaders backed the Board's stand that the recess appointments are legal, and that the Board is acting legally. AFL-CIO President Richard Trumka said the court's ruling is "radical and unprecedented." Change To Win Chairman Joe Hansen called it "misguided."

"The real issue here is the Senate's inability to confirm qualified nominees," Hansen added. "Senate Republicans, aided by a broken rules system, are carrying the water of big business and denying workers and unions a fair shake" by filibustering NLRB nominees, forcing Obama into recess appointments.

Both the Senate and House Republicans filed friend of the court briefs on

the side of the company and challenging the NLRB.

The case itself pitted Noel Canning, a Yakima, Wash., Coca Cola distributor, against the Board. The NLRB said the firm broke labor law in declaring an impasse in 2010 bargaining with Teamsters Local 760, and wanted to enforce its bargaining order. But the basic case got lost in the constitutional issue of Obama's recess appointments to the NLRB.

The firm argued the appointments were illegal and the Board didn't have a quorum and thus could not decide the case. The three-judge panel of the U.S.

Circuit Court of Appeals for D.C. — the court that handles almost all federal agency cases — agreed.

The judges said Obama named three NLRB members, using his power to fill agency positions when the Senate is in recess, when it wasn't in recess. The Senate had been meeting in 1-minute-or-less sessions, every three days. That means it was technically not in recess, appellate Judge David Sentelle, a GOP appointee, wrote.

Thus, Obama's appointments were not constitutional, the NLRB didn't have a quorum and it could not decide the case, Sentelle added.

...Filibuster reform fails

(From Page 1)

With Democrats in control of the Senate in the 113th Congress, Merkley, Udall and Harkin introduced Senate Resolution 4 on opening day. [Under the U.S. Constitution, the Senate can change its operating rules on the first day of the legislative session with the support of a simple majority.] The resolution had 18 co-sponsors (no others from Oregon or Washington) and, according to Udall, enough votes to pass.

It was at that point Reid went to work on his "compromise" plan, going so far as to delay opening day by several weeks (using a parliamentary procedure calling for a recess at the end of the first day instead of adjournment) to allow time to work out the details with McConnell.

"It isn't filibuster reform," Shane Larson, a legislative aide to the CWA, told the Daily Beast blog. "And to call it filibuster reform is mislabeling it. It doesn't change the filibuster at all. It is a procedural reform that speeds up the Senate, and that is all."

While campaigning for reform, Merkley agreed that "without a talking filibuster, obstructionist senators will still be able to silently stall any piece of legislation they want without any accountability."

A day after the Jan. 25 Senate vote, McConnell's campaign launched a new fundraising pitch to conservatives touting the senator's work in stopping the reform, The Hill newspaper reported.

"We beat the liberals," the pitch read. "A group of the Senate's most liberal senators, fueled by left-wing groups like MoveOn, have been pushing a dangerous scheme to change the rules of the United States Senate and fundamentally alter the checks and balances of our system," read the email, written by campaign manager Jesse Benton.

He goes on to declare that McConnell, "stopped that scheme dead in its tracks."

CWA's Cohen said filibusters could sidetrack much of what labor wants from the new Congress.

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