

January 10, 2012

[Debra Saunders](#) says the president doesn't work well with others.

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He only gets along with yes-men. "I refuse to take no for an answer," Obama said Wednesday of his decision to make a "recess" appointment that placed Richard Cordray as head of a new Consumer Financial Protection Bureau. The Constitution, of course, gives the president the power to make appointments during Senate recesses. Technically, however, the Senate was in session. The imperial president bypassed Senate rules and years of precedent, because he wouldn't or couldn't cut a deal.

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I understand the president's frustration with the system. In December, 53 senators voted in Cordray's favor, but under Senate rules, 60 votes are needed to bring his confirmation to an up-or-down floor vote. (Republican senators don't have a problem with Cordray, per se. They used his nomination in an attempt to roll back some of the regulatory powers and increase congressional oversight of the new consumer bureau, created in the Dodd-Frank law.)

The 60-vote threshold may not seem fair. But in his 2006 book, "The Audacity of Hope," Obama wrote, "To me, the threat to eliminate the filibuster on judicial nominations was just one more example of the Republicans changing the rules in the middle of the game." He was angry at Republicans for thinking about flouting precedent.

Obama, however, didn't seem to mind when Democrats changed the rules during George W. Bush's presidency. On Nov. 16, 2007, Senate Majority Leader Harry Reid announced that the Senate would hold pro forma sessions - that could involve little more than gavel rattling - during the [Thanksgiving](#) holiday "to prevent recess appointments." ...

Interesting historical comparison from [John Steele Gordon](#).

I agree with [Pete](#) and [Alana](#)—and many others around the blogosphere—that Obama's mini-Putsch two days ago was both lawless and typical of this administration. Obama only cares about his re-election at this point, and if that requires the Constitution to be trashed in the process, well, so be it.

As Alana pointed out, Charles Krauthammer thinks it might be clever politics, however cynical, because the president is arguing he has to get things done and it's all the Senate's fault for being obstructionist. I'm not so sure. The American people take the Constitution seriously and have a limited tolerance for politicians who try to evade it for political purposes. FDR, just off a triumphant re-election (46 of 48 states), tried in 1937 to "pack" the Supreme Court that had been

obstructing his programs by adding an extra justice for every justice over 70 years of age. That would have been perfectly constitutional, as Congress has the power to set the number of justices. (There were originally six, and there were 10 after 1863. The number has been fixed at nine since 1869.) But the people would have none of it, and Congress, responding to public opinion, refused to act. It was a devastating political defeat for FDR. ...

[American.com](#) notes the demise of another anti-fracking study.

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*High leakage rates, a short methane GWP [Global Warming Potential], and comparison in terms of heat content are the inappropriate bases upon which Howarth et al. ground their claim that gas could be twice as bad as coal in its greenhouse impact. **Using more reasonable leakage rates and bases of comparison, shale gas has a GHG footprint that is half and perhaps a third that of coal.***

The anti-frackers will keep trying though—they have little choice. Cheap, abundant natural gas could undercut their ability to drive the energy policy agenda (not to mention transportation policy, housing policy, industrial policy, etc.) by simultaneously pushing coal out of the market, cleaning the air, and reducing greenhouse gas emissions. And all without a grand government-driven energy policy. Imagine that.

A peek into the coming turmoil in the legal profession can be gleaned from a post from [Inside The Law School Scam](#) Blog. This post is a reaction to the head of the ABA expressing little concern over the lack of jobs for recent law grads.

... You really couldn't ask for a better illustration of how untethered our profession's powers that be have gotten from basic social and economic reality. Does Robinson actually think that, under present conditions and into the foreseeable future, an annual tuition of \$25,000 would make the average law school a good deal? Is he aware that this number is 70% higher, in real, inflation-adjusted dollars, than what the average private law school cost 25 years ago? Does he understand that a \$25,000 annual tuition translates into an average of \$80,000 of law school debt for students who attend such institutions? Does he have any idea how many current law graduates have career prospects that justify taking on that amount of high-interest non-dischargeable debt?

These are not "complex questions." A complex question is whether you'd rather have Aaron Rodgers or Tom Brady as your quarterback with the score tied in the fourth quarter, or whether the universe is ultimately a meaningless void, or whether Beggars Banquet is a better album than Abbey Road. A simple question is whether the current cost of legal education is justified by the likely return on investment it produces.

So here's to you, Mr. Robinson. You've provided a perfect illustration of why Congress needs to take a regulatory flamethrower to your clueless organization, at least to the extent it continues to enable a system of professional accreditation that has degenerated into the smuggest and slackest of cartels -- one which benefits law schools, while doing serious damage to lawyers, law students, and, not least, the public at large, which will be picking up the tab for all the selfishness and stupidity that fuels this system.

Slate pays tribute to a new U. S. map.

... American mapmaking's most prestigious honor is the "Best of Show" award at the annual competition of the Cartography and Geographic Information Society. The five most recent winners were all maps designed by large, well-known institutions: National Geographic (three times), the Central Intelligence Agency Cartography Center, and the U.S. Census Bureau. But earlier this year, the 38th annual Best of Show award went to a map created by Imus Geographics—which is basically one dude named David Imus working in a farmhouse outside Eugene, Ore.

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San Francisco Chronicle

Executive Power

Obama's 2012 slogan: 'Can't work with others'

by Debra J. Saunders

President Obama is running for re-election with an unusual pitch: He can't work with others.

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Consumer Financial Protection Bureau. The Constitution, of course, gives the president the power to make appointments during Senate recesses. Technically, however, the Senate was in session. The imperial president bypassed Senate rules and years of precedent, because he wouldn't or couldn't cut a deal.

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Obama, however, didn't seem to mind when Democrats changed the rules during George W. Bush's presidency. On Nov. 16, 2007, Senate Majority Leader Harry Reid announced that the Senate would hold pro forma sessions - that could involve little more than gavel rattling - during the [Thanksgiving](#) holiday "to prevent recess appointments."

According to the Congressional Research Service, "The Senate pro forma session practice appears to have achieved its stated intent. President Bush made no recess appointments between the initial pro forma sessions in November 2007 and the end of his presidency." Upon [Obama's](#) election, recesses resumed, but in 2010, the Senate resurrected pro forma sessions.

And now Reid agrees with Obama aides who say that his pro forma sessions are a gimmick. He's supporting the president's attempt to undermine Senate power.

In 2010, two former Bush attorneys wrote an opinion piece in which they urged Bush to call the Dems' bluff on "phony" pro forma sessions. Bush did not oblige. He may not have liked the "phony" rules, but he showed respect for the Senate's prerogative.

What happens if Obama wins re-election in 2012, but the GOP wins the Senate? How will Obama get anything done?

"He's poisoning the well," observed John Yoo, UC Berkeley law school professor and former Bush administration attorney. Worse: "This is going on when his party is in charge."

This is how little Obamaland respects Reid's Senate. White House Communications Director Dan Pfeiffer wrote on the White House blog Wednesday: "The Senate has effectively been in

recess for weeks, and is expected to remain in recess for weeks." Then Pfeiffer attacked the pro-forma gimmick.

"It was during one of those pro forma sessions, which they call a gimmick, that we passed the two-month extension for the payroll-tax holiday," Don Stewart, spokesman for Senate Minority Leader Mitch McConnell dryly observed. On Dec. 23, the Senate gave Obama what he wanted. As a reward, the administration says the Senate wasn't really doing anything.

Republicans scratch their heads. For years, the chattering classes bemoaned Bush's copious use of executive power. Yet when Obama steps on the Senate, news reports describe Obama's behavior as bold and media savvy.

The bigger issue, however, concerns Team Obama's apparent decision to win re-election by playing to the liberal base, not the American political middle. While the administration should be working to heal the economy, the administration is busy pointing fingers at bad Republicans.

Tea Party Express co-founder Sal Russo likened the Obama strategy to Bush guru Karl Rove's strategy to win re-election in 2004 by ginning up the base. Russo doesn't see how it works for the Democrats in 2012.

To independent voters especially, the president's failure to work with Congress doesn't compute. "Look, you're president," said Russo. "Why can't you just walk over to Congress and talk to these guys?"

To the average Joe, there's only one standard, noted Russo, "You've got to get the job done."

Contentions

[Our Lawless President and the Recess Appointment Fight](#)

by John Steele Gordon

I agree with [Pete](#) and [Alana](#)—and many others around the blogosphere—that Obama's mini-Putsch two days ago was both lawless and typical of this administration. Obama only cares about his re-election at this point, and if that requires the Constitution to be trashed in the process, well, so be it.

As Alana pointed out, Charles Krauthammer thinks it might be clever politics, however cynical, because the president is arguing he has to get things done and it's all the Senate's fault for being obstructionist. I'm not so sure. The American people take the Constitution seriously and have a limited tolerance for politicians who try to evade it for political purposes. FDR, just off a triumphant re-election (46 of 48 states), tried in 1937 to "pack" the Supreme Court that had been obstructing his programs by adding an extra justice for every justice over 70 years of age. That would have been perfectly constitutional, as Congress has the power to set the number of justices. (There were originally six, and there were 10 after 1863. The number has been fixed at nine since 1869.) But the people would have none of it, and Congress, responding to public opinion, refused to act. It was a devastating political defeat for FDR.

A lawsuit would be necessary here, and I very much doubt an individual senator has standing. The Senate as a body might, but since it's controlled by Democrats that won't happen. However, a company ordered to do something by either the Consumer Financial Protection Bureau (isn't there something Orwellian about that name?) or the National Labor Relations Board might well have a case.

There are good arguments to present. Laurence H. Tribe, a liberal law professor at Harvard, [makes the case](#) for Obama in today's *Times*, but it seems to me a pretty weak one. He basically argues that as the Senate was only in pro forma session, designed to obstruct the president's recess appointment power, the president was justified in ignoring it. But as PJ Tatler [points out](#), the Congressional Record shows the Senate actually conducted business during at least one of these pro forma sessions. He also argues that the Senate was in an extended recess, thus justifying the president's action in order to assure the public's business got done. But in fact, the pro forma sessions had only begun on December 17. The nominees to the NLRB had only been nominated on December 15. The Senate could not possibly have acted on those nominations, so its power to advise and consent had been nullified by the president's action.

It should be noted that the constitutional section in question (II/2/3) gives the president power to make recess appointments "during the recess of the Senate." Not "a recess" but "the recess." To me, that implies the time when the Senate has finished its business and gone home until the next regular session, which used to be long periods, not a temporary break during the holidays.

It has also been pointed out that the law establishing the CFPB states that the director cannot act until he has been "confirmed by the Senate," and clearly he has not been.

It will be fascinating to see how this plays out. Hopefully there will be enough happening to keep the story in the news, demonstrating just how arrogant and lawless this president is.

American.com

[Another anti-fracking study bites the dust](#)

by Kenneth P. Green

Opponents of "fracking," the use of hydraulic fracturing technology to liberate natural gas from shale formations (among other things) are desperate to tar the new technology before free-energy markets can undermine the green-power revolution with abundant flows of affordable natural gas.

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Inside the Law School Scam

Exhibit A

by Paul Campos

To be stupid, selfish, and have good health are three requirements for happiness, though if stupidity is lacking, all is lost.

-- Flaubert --

From the ABA's web site:

"Wm. T. (Bill) Robinson III is Member-in-Charge of the Northern Kentucky offices of Frost Brown Todd LLC, a regional law firm with offices in Kentucky, Ohio, Tennessee, West Virginia and Indiana. He currently serves as President of the American Bar Association for a one-year term which began on August 8, 2011."

From Reuters, via the [Chicago Tribune](#):

' Young lawyers with huge educational debts and no jobs in a depressed U.S. legal market should have known what they were getting into, the president of the American Bar Association said on Wednesday.

William Robinson, in an interview at the ABA's office here, responded to recent criticisms from Congress, the media and law students targeting the role of the trade group in fostering high expectations about legal jobs.

Robinson, a lawyer in Kentucky, said anyone entering law school has already completed an undergraduate degree or more.

"It's inconceivable to me that someone with a college education, or a graduate level education, would not know before deciding to go to law school that the economy has declined over the last several years and that the job market out there is not as opportune as it might have been five, six, seven, eight years ago," he said.

College graduates are capable of making "an independent decision and a free choice" to go to law school, he said. '

To quote a [leading contemporary philosopher](#), the problem with this business is that it's filled to the brim with unrealistic . . . individuals. Individuals like Wm. T. (Bill) Robinson III, who apparently thinks that being an old white guy in an (empty) suit with good hair and a fancy title after his name immunizes him and his organization from the potentially unpleasant consequences which might follow from giving an interview in which he essentially tells a few U.S. senators to drop dead.

Critics including two [actually three] U.S. senators have asked whether the bar association does enough to police law schools, a handful of which face allegations that they inflated statistics about post-graduation employment in order to attract more students.

Robinson said the number of schools in question is "no more than four" [sic] out of 200 with ABA accreditation, and he said few lawmakers have expressed interest in the subject. "It hasn't been a groundswell of comment from Congress," he said.

I'm personally looking forward to seeing Wm. T. (Bill) Robinson III's testimony at the upcoming Senate hearings on the subject of, among many other fascinating topics, whether the current president of the ABA is as crooked as a three-dollar bill, or just remarkably stupid.

This isn't as easy a question to answer as you might imagine. It's true that it's hard to believe anyone with an IQ over 95 could say the things Robinson says in this interview (really, go read it). On the other hand, I've learned over the past couple of decades that there are some really, really dumb people in this business, some of whom, through the mysterious processes by which Persons of Quality rise to Positions of Leadership, are actually running important aspects of this thing of ours.

Robinson, it seems, is happy as the proverbial clam, and [roughly as self-aware](#). Does he really think anyone who matters is going to buy what he's selling? After all, his organization's commitment to requiring law schools to publish something other than grossly misleading employment and salary data was completely invisible until his office started getting [pointed inquiries](#) from U.S. senators a few months ago -- inquiries to which Robinson's organization made such an inadequate response that they generated polite but firm [requests](#) to try again. Now he turns around and gives a formal interview -- I find it hard to believe that these quotes were generated in such a context, as opposed to a drunken post-midnight conversation in a Palmer House bar -- in which he basically says all these unemployed law grads with six figures of non-dischargeable debt are a bunch of naive idiots, whose current situation is their own goddamned fault.

Robinson's theory of the case, as it were, appears to be that having a college degree precludes someone from bringing an action for fraud. I'm no expert in this area of the law, but I have my doubts about the soundness of that purported doctrine. In the alternative, the learned gentleman argues that the ABA is powerless to do anything about the fact that elite law schools charge such [high tuition](#) (as compared to [non-elite schools](#)), and in any case who's to say whether law school costs too much these days? Mr. Bojangles tap dances around that question:

"I should take the lead in telling these [elite law] schools that they should reduce their tuition to \$25,000 a year? No, I don't think I should do that. I don't think it would be purposeful. I don't think it would be meaningful. I don't think it would accomplish anything for me to do that," Robinson said.

He said "it's a complex question as to whether the cost is higher than it should be or is justified." You really couldn't ask for a better illustration of how untethered our profession's powers that be have gotten from basic social and economic reality. Does Robinson actually think that, under present conditions and into the foreseeable future, an annual tuition of \$25,000 would make the average law school a good deal? Is he aware that this number is 70% higher, in real, inflation-adjusted dollars, than what the average *private* law school cost 25 years ago? Does he understand that a \$25,000 annual tuition translates into an average of \$80,000 of law school debt for students who attend such institutions? Does he have any idea how many current law graduates have career prospects that justify taking on that amount of high-interest non-dischargeable debt?

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Slate

[The Best American Wall Map](#)

David Imus' "The Essential Geography of the United States of America"

by Seth Stevenson

Made by one guy in Oregon

American mapmaking's most prestigious honor is the "Best of Show" award at the annual competition of the Cartography and Geographic Information Society. The five most recent winners were all maps designed by large, well-known institutions: National Geographic (three times), the Central Intelligence Agency Cartography Center, and the U.S. Census Bureau. But earlier this year, the 38th annual Best of Show award went to a map created by Imus Geographics—which is basically one dude named David Imus working in a farmhouse outside Eugene, Ore.

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Imus map of the United States.

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These days, almost all the data cartographers use is provided by the government and is freely available in the public domain. Anybody can download databases of highways, airports, and cities, and then slap a crude map together with the aid of a plotter. What separates a great map from a terrible one is choosing which data to use and how best to present it.

How will you signify elevation and forestation? How will you imply the hierarchy of city sizes? How big must a town (or an airport, or a body of water) be to warrant inclusion? And how will you convey all of this with a visual scheme that's clean and attractive?

According to independent cartographers I spoke with, the big mapmaking corporations of the world employ type-positioning software, placing their map labels (names of cities, rivers, etc.) according to an algorithm. For example, preferred placement for city labels is generally to the upper right of the dot that indicates location. But if this spot is already occupied—by the label for a river, say, or by a state boundary line—the city label might be shifted over a few millimeters. Sometimes a town might get deleted entirely in favor of a highway shield or a time zone marker. The result is a rough draft of label placement, still in need of human refinement. Post-computer editing decisions are frequently outsourced—sometimes to India, where teams of cheap workers

will hunt for obvious errors and messy label overlaps. The overall goal is often a quick and dirty turnaround, with cost and speed trumping excellence and elegance.

By contrast, David Imus worked alone on his map seven days a week for two full years. Nearly 6,000 hours in total. It would be prohibitively expensive just to outsource that much work. But Imus—a 35-year veteran of cartography who's designed every kind of map for every kind of client—did it all by himself. He used a computer (not a pencil and paper), but absolutely nothing was left to computer-assisted happenstance. Imus spent eons tweaking label positions. Slaving over font types, kerning, letter thicknesses. Scrutinizing levels of blackness. It's the kind of personal cartographic touch you might only find these days on the hand-illustrated ski-trail maps available at posh mountain resorts.

A few of his more significant design decisions: Your standard wall map will often paint the U.S. states different colors so their shapes are easily grasped. But Imus' map uses thick lines to indicate state borders and reserves the color for more important purposes—green for denser forestation, yellow for population centers. Instead of hypsometric tinting (darker colors for lower elevations, lighter colors for higher altitudes), Imus uses relief shading for a more natural portrait of U.S. terrain.



Left: Imus map of Cincinnati. Right: National Geographic map of Cincinnati

Consider these two views of the Cincinnati area. On the right, a National Geographic map employs a featureless white background and arbitrarily colors the state borders purple, green, and orange. On the left, Imus' map uses a thick green line to indicate all state boundaries—allowing us to more easily recognize that it's the Ohio River that defines those boundaries. Meanwhile, Imus uses colored shading to reflect the relative forestation level of the area and to accurately capture its gently rolling terrain.

Imus has also taken care to ensure that his map is densely packed with useful information yet still easy to read. Every major locale gets a list of key attractions such as universities, museums, and neighborhoods. Every airport gets its three-letter code.



Left: Imus map of Chicago. Right: National Geographic map of Chicago

Consider Imus' take on Chicago. Imus' map, on the left, includes a list of the city's major attractions and institutions. The thick black T's trace the time-zone division as it snakes its way east of Gary and then bisects Lake Michigan. The red dotted line marked "FY" indicates a ferry route between Milwaukee and Muskegon. Imus omits some of the smaller towns included on the National Geographic map on the right, making thoughtful choices to provide a richer portrait of the area's culture and geography.

The longer you look at Imus' map, the more deeply you feel the complexity and the artistry. It comes out of a tradition in which maps were made by hand using hot wax and X-Acto knives. You have no doubt that every tiny decision on Imus' map was made for a reason.

Other mapmakers I spoke with marveled at the handcrafted beauty of the thing. (One guy reminisced about a Soviet map from the 1970s that used different colors for freshwater and saltwater lakes. He said Imus' map achieves that level of specificity.) This is an example of heartfelt, artisanal cartography coming from a pro at the top of his game.

Yet, barring a miracle, this opus will barely be seen. Specialty map shops are disappearing. Bookstore chains tend to carry only the major map brands. And even if they were somehow made aware of Imus' marvelous creation, most school systems can't afford or can't be bothered to update their classroom maps. A map is a map, right? That circa 1982 Rand McNally wall blob does the job just fine, the thinking goes.

Some might argue that classrooms don't need paper maps at all. That none of us do. The Internet is full of free digital maps that boast amazing functionality. They can dictate driving directions, or help us find stores and hunt for real estate. We can look at these maps on the move—on our mobile phones or on the navigational systems in our cars. What good is an unwieldy paper wall map that can't be pinched, zoomed, or double-clicked?

For one thing, that zooming capability means the makers of a single digital map are forced to design dozens of differently scaled versions. This severely limits how much time they can devote to perfecting the layout at each zoom level. Imus' map never varies from its scale of 65 miles to the inch, but everything you see at that one scale is exactly as Imus wishes you to see it. Besides, if you need to zoom in on a wall map you can just tiptoe closer to the wall.

There's also a certain flavor of geographic comprehension that comes with taking in a map all at once in a large format. Imus argues that you can't truly understand a place if you only use zoomed-in maps on teensy screens. (Evidence for this notion: Although we probably look at maps now more than at any other time in history—thanks to their digital ubiquity—our knowledge of geography hasn't improved at all. Studies show that our kids continue to live in geographic ignorance, in some cases worse than it was 15 years ago.) Looking at Imus' big, richly detailed map offers a holistic sense of what America looks like—how cities spread out along rivers, forests give way to plains, and mountains zigzag next to valleys. In Imus' exuberant view, a map like this might inspire enough geographic curiosity to guide the next generation of students back on course.

Finally, there's that simple, ancient joy of paper. The joy one derives from paging through a crisp hardcover book instead of switching on a Kindle. From doing the crossword in ink, on newsprint, instead of typing it into an iPad app. Can we agree that one needn't be a Luddite to recognize these small pleasures?

This object—painstakingly sculpted by a lone, impractical fellow—is a triumph of indie over corporate. Of analog over digital. Of quirk and caprice over templates and algorithms. It is delightful to look at. Edifying to study. And it may be the last important paper map ever to depict our country.

Surely that's worth some space on the wall of your den?





