Republican Perspective
6 December 2017
by Ed Manning

A FOURTH BRANCH?

"Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other." John Adams, Second President of U.S.

The Progressive Left's quest for unmitigated power was on full display with its gamble to seek a temporary restraining order against President Trump's executive authority to name an acting director to the Consumer Financial Protection Bureau (CFPB). Director Richard Cordray resigned with one year remaining on his term and then defied Trump's order to install Mick Mulvaney, the current director of the Office of Management and Budget (OMB), as acting director of the CFPB. Instead Mr. Cordray ordered his deputy, Leandra English, to be the acting director. Ms. English then filed a motion with the U.S. District Court of the District of Columbia for a temporary restraining order against Mulvaney serving as acting director.

The U.S. District Court Judge sided with the Trump Administration and would not stop Mr. Mulvaney from serving as Acting Director of CFPB. Ms. English has said that she would appeal. Mr. Cordray and Ms. English contend that the Dodd-Frank law requires the president to automatically choose the deputy director as the acting director until the Senate confirms a replacement. The judge ruled that the Vacancies Reform Act provides the Executive branch to name an acting head of a government agency.

Why does any of this matter? The Progressive Left's "resistance," has now entered a phase of creating a constitutional crisis. They are challenging the constitution's separation of powers to satisfy both their lust for power as well as their disdain for a duly elected President.

The CFPB was the brainchild of Senator Elizabeth Warren (MA-D) and became part of the Dodd-Frank law. As the *National Review* reports, Republicans argued that the CFPB's unique structure — an independent agency whose single director the president can fire only for cause, with guaranteed funding through Federal Reserve Bank profits rather than the congressional appropriation process — is a recipe for government abuse, if not unconstitutional. According to an analysis by *The Washington Examiner*, 741, or over 60 percent, of the CFPB's employees make salaries of $100,000 or more.

There's a reason the D.C. Court of Appeals described its set-up as ridiculously unconstitutional, stating, "when measured in terms of unilateral power, the Director of the CFPB is the single most powerful official in the entire US Government, other than the president. Indeed, within his jurisdiction, the Director of the CFPB can be considered even more powerful than the President."

The CFPB director operates as a fourth branch czar over the most important aspects of financial services, including mortgages, student loans, credit cards, and all banking practices. The director wields both the "legislative" power to regulate and the enforcement power over 19 consumer-protection statutes previously handled by seven multi-member agencies. Political operatives used the CFPB's super-independence to stonewall congressional subpoenas and hide unethical investigation tactics, internal discrimination problems, and other inconvenient facts. Republican critics were dismissed.

The Wall Street Journal (WSJ) reported how Mr. Cordray went after auto dealers, even though Dodd Frank explicitly excluded them from the agency's oversight. He did this by targeting banks that finance auto dealers. Mr. Cordray charged them with disparate impact of making unfavorable loans to minorities. The WSJ states that CFPB fabricated evidence of racial disparity in auto lending to shake money out of lenders without court appeal. CFPB held hostage, until the banks settled, approvals that banks needed from other federal agencies.

What the CFPB did with the settlement monies reflects Progressive Democrat cronyism. From 2014 to 2017, the bureau paid $11 million a year to rent office space in an Obama fundraiser's building. CFPB sent the civil money penalties to a trustee of its choice, who, after taking a healthy cut, distributed the funds to victims. This both enriched Democratic trustees and transformed fines extracted from defenseless businesses into "over $12 billion in damages returned to 29 million injured consumers." To spread the success of their intimaditions, the bureau paid over $43 million to GMMB, the liberal advocacy group that created ads for the Obama and Hillary presidential campaigns.

A former CFPB enforcement attorney offered that Mr. Cordray feared that Mr. Mulvaney would discover evidence the CFPB has been hiding for years. These include the bureau's failure to investigate the Wells Fargo fraud; data manipulation in its failed attempt to regulate car dealers by guessing buyers' races and alleging discriminatory lending; inspector-general admonishments to stop obstructing congressional oversight; and some particularly explosive sexual-harassment claims against CFPB senior managers.

Don’t be fooled, Sen. Elizabeth Warren is a champion of the swamp.