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# Strassel: Obama's Imperial Presidency

*When Congress won't do what he wants, he ignores it and acts anyway.*



By KIMBERLEY A. STRASSEL

The ObamaCare litigation is history, with the president's takeover of the health sector deemed constitutional. Now we can focus on the rest of the Obama imperial presidency.

Where, you are wondering, have you recently heard that term? Ah, yes. The "imperial presidency" of George W. Bush was a favorite judgment of the left about our 43rd president's conduct in war, wiretapping and detentions. Yet say this about Mr. Bush: His aggressive reading of executive authority was limited to the area where presidents are at their core power—the commander-in-chief function.



Chip Somodevilla/Getty Images

By contrast, presidents are at their weakest in the realm of domestic policy—subject to checks and balances, co-equal to the other branches. Yet this is where Mr. Obama has granted himself unprecedented power. The health law and the 2009 stimulus package were unique examples of Mr. Obama working with Congress. The more "persistent pattern," Matthew Spalding recently wrote on the Heritage Foundation blog, is "disregard for the powers of the legislative branch in favor of administrative decision making without—and often in spite of—congressional action."

Put another way: Mr. Obama proposes, Congress refuses, he does it anyway.

For example, Congress refused to pass Mr. Obama's Dream Act, which would provide a path to citizenship for some not here legally. So Mr. Obama passed it himself with an executive order that directs officers to no longer deport certain illegal immigrants. This may be good or humane policy, yet there is no reading of "prosecutorial discretion" that allows for blanket immunity for entire classes of offenders.

Mr. Obama disagrees with federal law, which criminalizes the use of medical marijuana. Congress has not repealed the law. No matter. The president instructs his Justice Department not to prosecute transgressors. He

disapproves of the federal Defense of Marriage Act, yet rather than get Congress to repeal it, he stops defending it in court. He dislikes provisions of the federal No Child Left Behind Act, so he asked Congress for fixes. That effort failed, so now his Education Department issues waivers that are patently inconsistent with the statute.

Similarly, when Mr. Obama wants a new program and Congress won't give it to him, he creates it regardless. Congress, including Democrats, wouldn't pass his cap-and-trade legislation. His Environmental Protection Agency is now instituting it via a broad reading of the Clean Air Act. Congress, again including members of his own party, wouldn't pass his "card-check" legislation eliminating secret ballots in union elections. So he stacked the National Labor Relations Board (NLRB) with appointees who pushed through a "quickie" election law to accomplish much the same. Congress wouldn't pass "net neutrality" Internet regulations, so Mr. Obama's Federal Communications Commission did it unilaterally.

In January, when the Senate refused to confirm Mr. Obama's new picks for the NLRB, he proclaimed the Senate to be in "recess" and appointed the members anyway, making a mockery of that chamber's advice-and-consent role. In June, he expanded the definition of "executive privilege" to deny House Republicans documents for their probe into the botched Fast and Furious drug-war operation, making a mockery of Congress's oversight responsibilities.

This president's imperial pretensions extend into the brute force the executive branch has exercised over the private sector. The auto bailouts turned contract law on its head, as the White House subordinated bondholders' rights to those of its union allies. After the 2010 Deepwater Horizon oil spill, the Justice Department leaked that it had opened a criminal probe at exactly the time the Obama White House was demanding BP suspend its dividend and cough up billions for an extralegal claims fund. BP paid. Who wouldn't?

And it has been much the same in his dealings with the states. Don't like Arizona's plans to check immigration status? Sue. Don't like state efforts to clean up their voter rolls? Invoke the Voting Rights Act. Don't like state authority over fracking? Elbow in with new and imagined federal authority, via federal water or land laws.

In so many situations, Mr. Obama's stated rationale for action has been the same: We tried working with Congress but it didn't pan out—so we did what we had to do. This is not only admission that the president has subverted the legislative branch, but a revealing insight into Mr. Obama's view of his own importance and authority.

There is a rich vein to mine here for GOP nominee Mitt Romney. Americans have a sober respect for a balance of power, so much so that they elected a Republican House in 2010 to stop the Obama agenda. The president's response? Go around Congress and disregard the constitutional rule of law. What makes this executive overreach doubly unsavory is that it's often pure political payoff to special interests or voter groups.

Mr. Obama came to office promising to deliver a new kind of politics. He did—his own, unilateral governance.

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