



Written by [John F. McManus](#) on June 20, 2012

Irrelevant Congress Allowing Presidency to Become a Monarchy?

President Obama's June 15 decree freeing at least 800,000 young illegal immigrants from possible deportation should be debated far more on executive overreach than on problems resulting from years of poor policing of the nation's borders. As predicted by many, the loose immigration policies resulted in additional problems (crime, welfare, polarization, young immigrants, etc.). It also created a crisis, something always presenting an opportunity for aspiring seekers of power to do some more damage.



The more fundamental issue that should be uppermost in the minds of people who care about freedom isn't the plight of those children of illegal immigrants who have committed no crime. Instead, it should be: Where does a President derive power to make law? Frame it another way and ask: How much longer will the legislative and judicial branches permit Presidents to ignore constitutional restraints on what they are permitted to do?

The latest action by President Obama granting a form of amnesty to so many brought to mind a remarkable column penned in 1999 by Clinton-era Secretary of Labor Robert Reich. Addressing concerns that the imminent impeachment trial of President Clinton would deadlock Congress and destroy any opportunities to address other issues, Reich's column contained the headline, "Trial ties up Senate? Don't Worry, Congress is irrelevant." Yes, irrelevant.

Claiming that Congress was almost dormant, Reich offered, "America's domestic policy is being run by Alan Greenspan and the Federal Reserve." He added that "America's foreign policy is now being run by the International Monetary Fund with some coaching from the Treasury Department." And, for good measure, he noted that "when the president decides to go to war, he no longer needs a declaration of war from Congress, he just calls up a few generals ... and sends in the bombers."

Reich, as expected, applauded what he described. And, more than a decade later, Congress has done nothing to reaffirm the powers clearly granted to it — and to it alone — by the Constitution that each member swears to uphold. Presidents have been making law for many years and they never should be allowed to do so. So, too have the Supreme Court and lower federal courts. The very first sentence in the Constitution addresses this matter: "All legislative powers herein granted shall be vested in a Congress of the United States." This abundantly clear portion of the venerable document has just been ignored by Obama. Senator Charles Grassley (R-Iowa) seemed to recall this limitation when he said the President's decree amounted to "circumventing Congress with a directive he may not have the authority to execute." "May not"? Grassley needs a refresher course on the Constitution. Senate colleague Marco Rubio (R-Fla.) was a bit more emphatic when he chided the President for "ignoring the Constitution and going around Congress."



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Congress actually refused to pass legislation to accomplish what Obama has done with the stroke of his pen. In December 2010, the DREAM Act (Development, Relief and Education for Alien Minors) addressed the very issues that the President has just enacted by decree. It earned passage in the House but died when the Senate blocked it. So President Obama decided to bypass Congress and take matters into his own hands. Recall that one of his favorite words is “audacity.”

Other Presidents have been equally audacious. When North Korea invaded South Korea in 1950, President Truman speedily answered the UN’s call for military action. He ignored requiring a congressional declaration of war before sending our nation’s forces into battle. He didn’t even call the subsequent three-year struggle a war, naming it a “police action.” Senator Robert Taft (R-Ohio) protested, labeling the move “a complete usurpation by the President of authority to use the Armed Forces of this country.” He added: “If this incident is permitted to go by without protest, at least from this body, we would have finally terminated for all time the right of Congress to declare war, which is granted to Congress alone by the Constitution of the United States.” He could see what a horrible precedent had been established.

Barack Obama’s reliance on non-existent authority to gain acceptance of the DREAM Act by decree is surely not without precedent. Presidents have used executive orders and other tricks to impose their wills for decades. Some have displayed huge contempt for Congress in the process. While campaigning for reelection in 1992, President George H.W. Bush told the Texas Republican State Convention, “I didn’t have to get permission from some old goat in Congress to kick Saddam Hussein out of Kuwait.” No, he didn’t ask anyone in Congress; he got his go-ahead from the United Nations. There should have been a huge protest but no “old goat in Congress” took needed action.

In 1993, a Senate resolution sought to block President Bill Clinton’s desire to send U.S. forces into Haiti. He responded in a press conference as follows: “I would welcome the support of Congress, and I hope I will have that. [But] like my predecessors, of both parties, I have no agreed that I was constitutionally mandated to get it.” Did Congress protest? Yes, but meekly.

In 2002, as plans were being formulated for the second war against Iraq, the House International Relations Committee actually considered a motion to declare war. Chairman Henry Hyde (R-Ill.) brushed it off, saying that requiring a declaration of war was “no longer relevant,” and that it was “inappropriate, anachronistic; it isn’t done anymore.” So another war, authorized by a UN Security Council Resolution and based on false claims that Iraq had “weapons of mass destruction,” began a few months later. Is Congress irrelevant? When it comes to going to war, the answer has to be yes.

But sending the nation into unconstitutional wars isn’t the only example of presidential power usurpation — and accompanying congressional docility. By executive order on December 2, 1970, President Richard Nixon created the Environmental Protection Agency. Congress has allowed this extraordinarily powerful regulatory body to issue a vast number of mandates that have crippled numerous industries and spurred many manufacturers either to close their doors or flee to countries where such burdensome edicts don’t exist.

Americans for years have been told that a Supreme Court ruling is “the law of the land.” How this can be when the Court is given no law-making power by the Constitution is never explained.

Our nation continues a steady move to have an imperial presidency. Too many have never been schooled enough to know that the accumulation of all power in any single place is the definition of tyranny. It is long past the time to rein in powers that have been usurped by the two minor branches of



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government. It is also time for Americans to acquaint themselves with the Constitution, even to overcome shoddy teaching of it in the schools we all pay for.



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