



Obama Ignores Election Returns in Bid for Greater Presidential Power

When the constitutional convention met in the summer of 1787, most of the delegates believed the power being given to the new federal government should be tempered by principles such as separation of powers, and checks and balances.

Separation of powers is the principle that the power to make law should reside in the legislative branch (Congress), leaving the power to make sure those laws are “faithfully executed” in the hands of a chief executive known as the president. Then, the interpretation of the law as it applied to specific cases arising under the law would be left to a judicial branch, with federal judges. The framers of the Constitution also included provisions that allowed each branch to use some restraint, or “check” on the constitutional power of the other two branches.



It was generally assumed at the time that Congress would be naturally jealous of any encroachment upon its power to make law. What the delegates did not expect, however, is that members of Congress, more often than not, would simply allow any president of their own political party to just “get away” with actions they would furiously oppose, if carried out by a president of the “other party.”

When President George W. Bush pushed for increased federal control over public education with his No Child Left Behind (NCLB) law, Republican members of Congress mostly supported him. But had NCLB been the brainchild of a Democrat president, it is likely that we would have had the benefit of more Republican opposition, with GOP members rightly arguing that the federal government has no such historic or constitutional role in education.

And, of course, Democrats have done the same, staunchly supporting President Barack Obama for actions very close to those they condemned when committed by Republican President Bush.

Senate Majority Leader Harry Reid, rather than defending congressional turf against frequent infringements upon congressional prerogatives by Obama, has largely prostrated the Senate to the president’s wishes.

This expansive view of presidential powers has been growing for decades, through both Democrat and Republican administrations, aided and abetted by those in Congress who are of the president’s party.

Following the recent congressional elections, in which the voters sent a clear message that they are unhappy with Obama’s policies, Obama has given early indications that he is prepared to defy Congress,



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the Constitution, and the American people, if any of these stand in the way of his progressive agenda. Most presidents at least give lip-service to moderating their course when their party is repudiated, as the Democrats were in the 2014 elections. President Bill Clinton, after his Democratic Party allies in Congress got drubbed in 1994, losing over 50 seats in the House of Representatives, and losing the Senate, even declared in the next State of the Union message, "The era of big government is over." We can only wish.

In the November elections, the Democrats suffered a net loss of eight Senate seats (and are expected to lose an additional seat in a run-off race in Louisiana). The Republicans now have more seats in the House of Representatives than they have had in several decades.

Instead of pulling back from his liberal agenda, though, President Obama has basically dismissed the election returns and vowed to act on his own. Most readers can no doubt remember Obama's bold claim that he can accomplish many of his goals to expand government through executive orders, because he has a pen and a phone. While Obama rightly lambasted Bush for attempting to use executive orders to make law, he now seems poised to move beyond Bush.

Obama's moves to use executive orders in an effort to subvert immigration laws are the most glaring and well-known. Obama has argued that he can use "executive discretion" to refuse to deport millions of illegal aliens, despite American laws. This is akin to a police officer deciding, on his own, to give every motorist a warning for exceeding the speed limit, because he has "discretion" in enforcement, or a football referee making a call based on what he thinks the rule should be, not on what it is.

But Obama is giving clear signals that he intends to simply ignore Congress when he can, such as his announcement that he will unilaterally implement tougher air quality standards for ozone protection. On November 10, he announced his intention to regulate the Internet, supposedly to protect consumers. Two days later, Obama reached an agreement with Communist China for new "targets" for greenhouse gas emissions, for the supposed purpose of fighting climate change. No mention is made of submitting such an agreement to the Senate for confirmation, as the Constitution requires. This is clearly an effort to make law via executive agreement.

Despite all these actions, it will be difficult for the Republicans to put the brakes on Obama's grasping for increased presidential power. First of all, while the Democrats are now in a decided minority in both houses of Congress, they have shown a willingness to support their party's president in just about any action he decides to take. Even while in the minority, the Democrats can provide a significant stumbling block to congressional efforts to combat presidential mischief. Any bills that Congress might pass to restrain Obama can expect a presidential veto, with the Democrats marching in virtual lock-step to sustain his veto.

One action that has been suggested is for Congress to exercise its constitutional "power of the purse," and cut funding in certain areas to provide effective retaliation for presidential abuse of power. Many Republicans fear any such budget confrontations with the president, however, anticipating that the contest would be cast by the liberal media as "shutting down the government." Still, this is an area in which Congress could move boldly, whatever actions Obama should take. Many have suggested that Congress should break up the huge federal budget into many smaller pieces. That way, Congress could selectively target areas to defund and punish the president, without having to concern themselves with his approval, or the Democrat minority.

Refusal to confirm selected presidential appointments is another potential avenue for Republicans to



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consider. Certainly, no conservative constitutionalist should vote to confirm any federal judge who shares Obama's obvious contempt for the Constitution. It is hard to imagine Obama selecting any judge who holds any respect for the concept of limited government and respect for the original intent of the Constitution.

For the past four years, Republicans have said that they are hamstrung, since they control only one house of Congress. While it is understood that efforts to contain Obama's imperial presidency will not be easy, Americans need to pressure the Republicans now in the majority of both houses of Congress to fight the president's inclination to make law with a pen and a phone.

We should soon see just how serious the Republicans in Congress are in taking on this fight to restrain an out-of-control president, who is clearly making every effort to "re-make America" from the Oval Office.



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