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Barack Obama, the king of climate change

The Constitution is of no consequence when there's a planet to save

By Patrick J. Michaels
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WASHINGTON—The Obama administration is working to forge a sweeping international climate change agreement to compel nations to cut their plant-warming fossil fuel emissions, but without ratification from Congress.

— New York Times, Aug. 26

President Obama clearly believes that the Supreme Court, in its 2007 decision, *Mass. v. EPA*, empowered the president, via the Environmental Protection Agency, to unlimited regulations of greenhouse gases without the advice or the consent of Congress. He has already shown that he means it. Barring an unlikely electoral earthquake off the Richter Scale, no new coal-fired generation facility is ever going to be built.

On Aug. 26, though, Mr. Obama crossed a bridge too far, proposing a “Climate Accord” (really, a treaty) that will, in the well-chosen words of *The New York Times*, “compel nations to cut their planet-warming fossil fuel emissions.” Never mind that we are now in the 18th consecutive year of not warming the planet, according to two separate and independent measures of surface and near-surface temperatures.

Do, however, mind that word “compel.” *Dictionary.com* gives four definitions: To force or drive, especially to a course of action; to secure or bring about by force; to force to submit, subdue; and to overpower.

How on God's getting-greener earth can the president think the nation can be “compelled,” absent the two-thirds vote of the Senate explicitly required by the Constitution? After all, his proposal, which will be unveiled by Mr. Obama himself at the United Nations' Climate Summit on Sept. 23 will “legally require” participants “to enact domestic climate change policies,” according to the *Times*. Isn't that up to the standard of a binding international treaty?

Well, harking back to his predecessor in the halcyon 1990s, Mr. Obama is playing fast and loose with the Constitution. In his mind, it might “depend on what the meaning of

is is.” Mr. Obama wants to write this “accord,” not as a new treaty, but as an addition to the already-ratified 1992 Framework Convention on Climate Change.

That’s not going to cut it. It’s already been done. That’s what the failed Kyoto Protocol and the purpose of Mr. Obama’s new codicil “is” to replace it. The Kyoto Protocol never did get the required two-thirds vote to be ratified by the Senate. The same will apply here.

A king in any area rules by absolute power. The fact of the matter is that Mr. Obama is obsessed with climate change, even as the voters of this country, who speak through their legislatures, most assuredly are not. That’s not his worry, though. He can’t be re-elected, and he doesn’t really care if, as retribution, the Democrats lose control of the Senate in this year’s election.

Convincing analyses of who lost and why show that a wildly unpopular cap-and-trade bill cost his party control of the House in 2010. When confronted on Nov. 3, 2010 about this and the future of greenhouse gas regulations, he replied that “there is more than one way to skin a cat,” meaning that he would simply ignore the legislative branch. His latest proposal skins everyone else’s kitty, too.

Emboldened by the Supreme Court, Mr. Obama can argue: Who needs the silly legislators when we’re saving the world from dreaded greenhouse gases? Besides, the earliest the U.N. is going to adopt this invasion of sovereignty worldwide will be late in 2015. That will put it back to at least 2016 before the newly spawned regulations — which we can only imagine at this point — harm someone enough to grant standing in the courts. He’ll be out of office before any possible legal blowback.

The Constitution is plain as day that any international treaty that compels certain actions by the United States requires a two-thirds ratification by the Senate. Only a king could think he would not be subject to that.

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