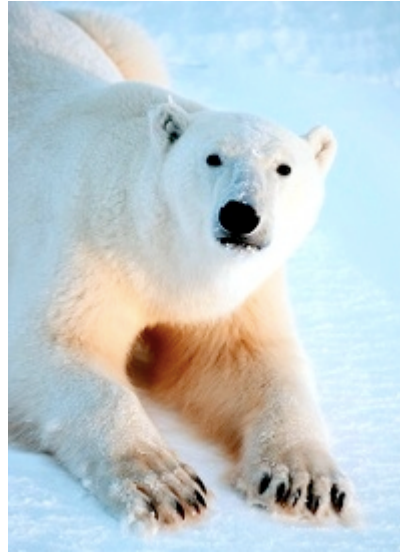




## Polar Bears Rule in Obama-nation

Well, the two-party system is working as it is supposed to, with Socialist Party A returning to power to perpetuate the discredited policies of Socialist Party B, which the "B" team inherited from the "A" team when the "A" team left office eight years earlier.



Listen now to the beltway banshees of the Grand Old Party as they cry out in anger and dismay at the latest fiat of the Obama administration, an executive order declaring 200,000 acres of Alaska off limits to human activity because it is a habitat for polar bears. (What? You didn't know polar bears were donors to the Obama campaign?) What the Republicans won't tell you and hope you will not be curious enough to ask is that Obama's executive order is a continuation of one Bush issued in 2008. And the Endangered Species Act is part of the legacy of the Nixon administration, the allegedly conservative Republican regime that inspired John Kenneth Galbraith to write a book called *Who Needs the Liberals?*

So forget the partisan aspect to the hue and cry and just ask your own Congressman the kind of question least appreciated by Speaker of the House Nancy Pelosi: "Where does the President, or the Congress for that matter, get the authority to declare part of Alaska or any other state off limits to human enterprise?" Is it that old standby, the interstate commerce clause? Are the bears engaged in interstate commerce?

Well, perhaps not directly. But it could be argued that saving the polar bear population will be a boon to Alaskan tourism some day when this or some future president deigns to allow mere humans to again trespass on the home where polar bears roam, thereby affecting interstate commerce. It could also be argued too that the polar bears don't need an executive order on their behalf declaring another 200,000 acres of Alaska off limits to human activity, considering that the population of the polar bears has, by at least some accounts, doubled in the past 20 years.

But if the polar bear population affects interstate commerce, what does *not* affect interstate commerce you might ask, in which case you are catching on. Would Congress have the authority to legislate the number of times you may sneeze in a day? Yes, of course. Your number of sneezes may well affect the number of boxes of facial tissue you may purchase and Kleenex and other brands of facial tissue come through interstate commerce. And if you cut up clean old shirts and other rags and use them as handkerchiefs, you probably shouldn't because that is a way of avoiding the purchase of facial tissues at the nearest convenience store or supermarket and thus has a deleterious effect on interstate commerce.



Written by [Jack Kenny](#) on November 8, 2009

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As Archie Bunker used to say, "Can't you folly that?"

Of course, not everyone is worried about whether or not the President has any constitutional authority to declare any part of the United States off limits to human enterprise. "Well, I don't know where it is in the Constitution," someone wrote me recently, "but I certainly want to save the bears. I want my grandchildren to live in a world where the polar bears are still around." Okay. But fish and whatever other creatures the polar bears eat may have another opinion if we could poll them on the subject. The bears themselves seem unconcerned about endangered species. And they appear oblivious to the global warming that supposedly threatens their existence. They neither read nor write environmental impact statements.

Speaker of the House Nancy Pelosi (D-Calif.) was asked not long ago where in the Constitution she found the authority for Congress to mandate individuals and non-exempt businesses to purchase health insurance. Her answer?

"Are you serious? Are you serious?" she responded. When the reporter answered unequivocally in the affirmative, she turned to another reporter for another, less serious, question. But her office later cited the presumed power — the interstate commerce clause.

I once listened to Al Gore speak at the city hall in Manchester, New Hampshire, when he was running for President. Gore spoke passionately about renovating and even "revolutionizing" education in America. When I finally got a turn to ask a question, I reminded him that ours is a Constitution of delegated powers. I then asked where in the Constitution he found the authority for the federal government to "revolutionize" education. I was not prepared for the response I got.

Al Gore stood motionless, staring at me. It was eerie. It was the longest, blankest, unblinking stare I have ever seen on the face of a living being. Recalling it, I am reminded that I used to joke that Gore as Vice President appeared to be but a heartbeat away from a heartbeat. I wondered if I should walk over to him and try to take his pulse. Or would the Secret Service arrest me if I tried?

Finally, he answered with a semi-coherent something-or-other about the 14th Amendment. The interstate commerce clause must have had the day off.

But the memory of that stare stayed with me. It reminded me of the time during the 1980 election campaign, when Lisa Meyers, then a young reporter for NBC News, asked President Carter why he was accusing Governor Ronald Reagan of something (I don't remember what) that Carter was himself doing. Carter cut in to say, with a friendly smile, "But I didn't accuse Governor Reagan. What I —"

"But you did!" the young reporter interrupted right back, contradicting El Presidente in front of God, the White House press corps, and a national television audience. "You said..." At which point, she proceeded to read the President's words from a transcript, words that sounded an awful lot like the accusation against Governor Reagan the reporter was accusing the President of making. Whereupon the world's most powerful man was temporarily speechless. He simply stared in obvious anger at Ms. Meyers for several long seconds. The young lady did not back down, but merely laughed a short, nervous, self-conscious laugh. She had made her point and the President did not like it. Reporters, apparently, are not supposed to come to a press conference armed with the facts.

Nor, apparently, are they supposed to raise the issue of a program's constitutionality.



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