



government's stance. In fact, 12 states disagree so fiercely that they are suing to force it to curb emissions of carbon dioxide, the most common greenhouse gas. The Supreme Court heard argument in the case on November 29th. The outcome will not be known for months, but the political wind seems to be shifting in favour of firmer action to counter climate change.

The Clean Air Act charges the Environmental Protection Agency (EPA) with regulating air pollution from vehicles. But the EPA argues that Congress did not intend to include CO<sub>2</sub> under that heading, and that to do so would extend the EPA's authority to an unreasonable extent. Furthermore, it contends that regulating emissions would not do good unless all or most other countries did the same. That is in keeping with the policies of President George Bush, who opposes mandatory curbs on emissions and believes that any international accord on global warming should apply to all countries—unlike the Kyoto protocol, which exempts poor ones, including big polluters such as China and India. Ten states (see map), among them gas-guzzling Texas and car-making Michigan, also back the EPA.

The plaintiffs comprise 12 states, three cities, various NGOs, and American Samoa, a Pacific territory in danger of vanishing beneath the rising ocean. They are supported by a further six states, two power companies, a ski resort, and assorted clergymen, Indian tribes and agitated grandees such as Madeleine Albright, a former secretary of state. They point out that under the administration of Bill Clinton, the EPA decided that it did have the authority to regulate CO<sub>2</sub>. The act, they note, says the EPA should regulate any air pollutant that “may reasonably be interpreted to endanger public health or welfare”. It goes on to define public welfare to include “effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate”.

The Supreme Court may give a mixed ruling, decreeing that carbon dioxide is indeed a pollutant, but one the EPA is free to ignore or regulate as it pleases. Or it might dismiss the complaint on the grounds that the plaintiffs did not have the right to lodge it in the first place. In theory, they must prove that the EPA's foot-dragging has caused them some specific harm that regulation might remedy—a tall order in a field as fraught with uncertainty as climatology. Even if the court found in the plaintiffs' favour, rapid change is unlikely. By the time the EPA had implemented such a ruling, Congress would probably have superseded it with a new law.

That is the point, environmental groups say. They want Congress to pass a law tackling global warming, and hope that a favourable court ruling will jolly the politicians along. Moreover, the case has a bearing on several other bitterly-contested lawsuits. Carmakers, for example, are trying to get the courts to strike down a Californian state law based on certain provisions of the Clean Air Act that require them to reduce their vehicles' CO<sub>2</sub> emissions. If the Supreme Court decides that the act does not apply to CO<sub>2</sub>, then the Californian law would also be in jeopardy. That, in turn, would scupper the decision of ten other states to adopt the same standard.

However the Supreme Court rules, many state governments are determined to tackle climate change. California is in the vanguard. Its legislature has passed a law that will cap

and then reduce industrial emissions of greenhouse gases. Seven eastern states have formed the Regional Greenhouse Gas Initiative, which will treat emissions from power plants the same way. Almost 400 mayors have signed an agreement to cut their cities' emissions in line with Kyoto. Many businesses, even some power companies, would rather see regulation now than prolonged uncertainty. And several of the leading contenders for 2008's presidential election are much keener on emissions caps than Mr Bush. Change is in the air.

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