

113TH CONGRESS
1ST SESSION

H. RES. 425

Expressing disapproval of the failure to satisfy the constitutional duty to “take Care that the Laws be faithfully executed” and the usurpation of the legislative authority of Congress by the President of the United States.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2013

Mr. DESANTIS (for himself, Mr. SALMON, Mr. WEBER of Texas, Mrs. BLACKBURN, Mr. MULVANEY, Mr. GARRETT, Mr. LAMALFA, Mr. FLEMING, Mr. KING of Iowa, Mr. STUTZMAN, Mr. BRIDENSTINE, Mr. YOHIO, Mr. McCLINTOCK, and Mr. WILSON of South Carolina) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Expressing disapproval of the failure to satisfy the constitutional duty to “take Care that the Laws be faithfully executed” and the usurpation of the legislative authority of Congress by the President of the United States.

Whereas Article I of the United States Constitution vests Congress with all legislative powers;

Whereas Article II, Section 3 of the United States Constitution imposes a duty on the President to “take Care that the Laws be faithfully executed”;

Whereas the Constitution does not delegate authority to the President to rewrite, amend, or delay duly-enacted, constitutional laws;

Whereas the “take care” duty has roots in Anglo-American law dating back to the Glorious Revolution of 17th century Britain, to wit, the English Bill of Rights of 1689 provided that “the pretended power of suspending laws, or the execution of laws, by regal authority, without the consent of parliament, is illegal”;

Whereas President George Washington explained the Constitution’s Take Care Clause as follows: “It is my duty to see the Laws executed: to permit them to be trampled with impunity would be repugnant to” that duty;

Whereas Thomas Jefferson observed that “if the equilibrium of the three great bodies, Legislative, Executive and Judiciary, could be preserved, if the Legislature could be kept independent,” he would “never fear the result of such a government”, but that “he could not but be uneasy when I saw that the Executive had swallowed up the Legislative branch”;

Whereas Alexander Hamilton explained in The Federalist No. 69 that, under the Constitution, the President “can prescribe no rules concerning the commerce or currency of the nation”;

Whereas James Madison wrote in The Federalist No. 47 that the “accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny”;

Whereas the text of the Patient Protection and Affordable Care Act requires that the Shared Responsibility for Em-

employers Regarding Health Coverage provision, commonly known as the employer mandate, “shall apply to months beginning after December 31, 2013”;

Whereas, on July 2, 2013, the executive branch announced that the President unilaterally rewrote the employer mandate provision to apply to the months applying after December 31, 2014;

Whereas, on July 17, 2013, the House of Representatives passed a bill to delay the employer mandate by statute;

Whereas the President threatened to veto the lawful change proposed by the House even though it was precisely the statutory change he instituted by executive fiat;

Whereas the Patient Protection and Affordable Care Act renders insurance policies that fail to contain what the government defines as “essential minimum benefits” to be illegal;

Whereas millions of Americans are losing their individual health insurance policies because such policies do not qualify for grandfather status under the statute;

Whereas, on November 14, 2013, the President announced that he would “extend” the statute’s grandfather clause to include plans not protected under the statute;

Whereas, on November 15, 2013, the House of Representatives passed a bill to overrule the provisions of the Patient Protection and Affordable Care Act that are causing mass cancellations of insurance policies; and

Whereas, on November 15, 2013, the President threatened to veto the lawful statutory change proposed by the House of Representatives: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

1 (1) disapproves of the President’s failure to
2 “take Care that the Laws be faithfully executed” as
3 required by the Constitution;

4 (2) disapproves of the President’s usurpation of
5 the legislative power of Congress through the rewrit-
6 ing of key provisions of the Patient Protection and
7 Affordable Care Act; and

8 (3) reaffirms that the preservation of the Con-
9 stitution’s separation of powers is essential for the
10 protection of individual liberty and the maintenance
11 of the rule of law.

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