Frankel (FL)	Lofgren	Roe (TN)
Franks (AZ)	Long	Rogers (AL)
Frelinghuysen	Lowenthal	Rogers (KY)
Fudge	Lowey	Rogers (MI)
Gabbard	Lucas	Rohrabacher
Gallego	Luetkemeyer	Rokita
Garamendi	Lujan Grisham (NM)	Rooney
Garcia	Luján, Ben Ray (NM)	Ros-Lehtinen
Gardner	Lummis	Roskam
Garrett	Lynch	Ross
Gerlach	Maffei	Rothfus
Gibbs	Maloney, Carolyn	Roybal-Allard
Gibson	Maloney, Sean	Royce
Gingrey (GA)	Marchant	Ruiz
Gohmert	Marino	Runyan
Goodlatte	Massie	Ruppersberger
Gosar	Matheson	Rush
Gowdy	Matsui	Ryan (OH)
Granger	McAllister	Ryan (WI)
Graves (GA)	McCarthy (CA)	Salmon
Graves (MO)	McCarthy (NY)	Sánchez, Linda T.
Grayson	McCaul	Sanchez, Loretta
Green, Al	McClintock	Sarbanes
Green, Gene	McCollum	Scalise
Griffin (AR)	McDermott	Schakowsky
Griffith (VA)	McGovern	Schiff
Grijalva	McHenry	Schneider
Grimm	McIntyre	Schock
Guthrie	McKeon	Schrader
Gutiérrez	McKinley	Schwartz
Hahn	McMorris Rodgers	Schweikert
Hall	McNerney	Scott (VA)
Hanna	Meadows	Scott, Austin
Harper	Meehan	Scott, David
Harris	Meeks	Sensenbrenner
Hartzler	Meng	Serrano
Hastings (FL)	Messer	Sessions
Hastings (WA)	Mica	Sewell (AL)
Heck (NV)	Michaud	Shea-Porter
Heck (WA)	Miller (FL)	Sherman
Hensarling	Miller (MI)	Shimkus
Herrera Beutler	Miller, Gary	Shuster
Higgins	Miller, George	Simpson
Himes	Moore	Sinema
Hinojosa	Moran	Slaughter
Holding	Mullin	Smith (MO)
Holt	Mulvaney	Smith (NE)
Honda	Murphy (FL)	Smith (NJ)
Horsford	Murphy (PA)	Smith (TX)
Hoyer	Nadler	Smith (WA)
Hudson	Napolitano	Southerland
Huelskamp	Neal	Speier
Huffman	Negrete McLeod	Stewart
Huizenga (MI)	Neugebauer	Stivers
Hultgren	Noem	Stutzman
Hunter	Nolan	Swalwell (CA)
Hurt	Nugent	Takano
Israel	Nunes	Terry
Issa	O'Rourke	Thompson (CA)
Jackson Lee	Olson	Thompson (MS)
Jeffries	Owens	Thompson (PA)
Jenkins	Palazzo	Thornberry
Johnson (GA)	Pallone	Tiberi
Johnson (OH)	Pascrell	Tierney
Johnson, E. B.	Pastor (AZ)	Tipton
Johnson, Sam	Paulsen	Titus
Jolly	Payne	Tonko
Jordan	Pearce	Tsongas
Joyce	Pelosi	Turner
Kaptur	Perlmutter	Upton
Keating	Perry	Valadao
Kelly (IL)	Peters (CA)	Van Hollen
Kelly (PA)	Peters (MI)	Vargas
Kennedy	Peterson	Veasey
Kildee	Petri	Vela
Kilmer	Pingree (ME)	Velázquez
Kind	Pittenger	Visclosky
King (IA)	Pitts	Wagner
King (NY)	Pocan	Walberg
Kinzinger (IL)	Poe (TX)	Walden
Kirkpatrick	Polis	Walorski
Kline	Posey	Walz
Kuster	Price (GA)	Wasserman Schultz
Labrador	Price (NC)	Waters
LaMalfa	Quigley	Waxman
Lamborn	Rahall	Weber (TX)
Lance	Rangel	Webster (FL)
Langevin	Reed	Welch
Lankford	Reichert	Wenstrup
Larsen (WA)	Renacci	Westmoreland
Larson (CT)	Ribble	Whitfield
Latham	Rice (SC)	Williams
Latta	Richmond	Wilson (FL)
Lee (CA)	Rigell	Wilson (SC)
Levin	Roby	Wittman
Lewis	Woodall	Yoder
Lipinski	Yarmuth	Yoho
LoBiondo		Young (AK)
Loebsack		Young (IN)

NAYS—5

Crawford	Kingston	Stockman
Jones	Sanford	

NOT VOTING—7

Clay	Hanabusa	Sires
Cleaver	Nunnelee	
DesJarlais	Pompeo	

□ 1640

So (two-thirds being in the affirmative) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE CERTAIN CORRECTIONS IN THE ENROLLMENT OF THE BILL H.R. 3230

Mr. MILLER of Florida. Mr. Speaker, I send to the desk a concurrent resolution and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The text of the concurrent resolution is as follows:

H. CON. RES. 111

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill H.R. 3230, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 101(a)(1)(B)(i), insert before the period at the end the following: '', including any physician furnishing services under such program''.

(2) In section 101(d)(3)(A), insert after ''1395cc(a))'' the following: ''and participation agreements under section 1842(h) of such Act (42 U.S.C. 1395u(h))''.

(3) In section 101(d)(3)(B)(i), strike ''provider of service'' and insert ''provider of services''.

(4) In section 101(d)(3)(B)(i), insert before the semicolon the following: ''and any physician or other supplier who has entered into a participation agreement under section 1842(h) of such Act (42 U.S.C. 1395u(h))''.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on the concurrent resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1645

AUTHORIZATION TO INITIATE LITIGATION FOR ACTIONS BY THE PRESIDENT

Mr. SESSIONS. Mr. Speaker, pursuant to House Resolution 694, I call up the resolution (H. Res. 676) providing for authority to initiate litigation for actions by the President or other executive branch officials inconsistent with their duties under the Constitution of the United States, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 694, the amendment recommended by the Committee on Rules printed in the resolution is adopted, and the resolution, as amended, is considered read.

The text of the resolution, as amended, is as follows:

H. RES. 676

Resolved, That the Speaker is authorized to initiate or intervene in one or more civil actions on behalf of the House of Representatives in a Federal court of competent jurisdiction to seek any appropriate relief regarding the failure of the President, the head of any department or agency, or any other officer or employee of the executive branch, to act in a manner consistent with that official's duties under the Constitution and laws of the United States with respect to implementation of any provision of the Patient Protection and Affordable Care Act, title I or subtitle B of title II of the Health Care and Education Reconciliation Act of 2010, including any amendment made by such provision, or any other related provision of law, including a failure to implement any such provision.

SEC. 2. The Speaker shall notify the House of Representatives of a decision to initiate or intervene in any civil action pursuant to this resolution.

SEC. 3. *(a) The Office* [The Office] of the General Counsel of the House of Representatives, at the direction of the Speaker, shall represent the House in any civil action initiated, or in which the House intervenes, pursuant to this resolution, and may employ the services of outside counsel and other experts for this purpose.

(b) The chair of the Committee on House Administration shall cause to be printed in the Congressional Record a statement setting forth the aggregate amounts expended by the Office of General Counsel on outside counsel and other experts pursuant to subsection (a) on a quarterly basis. Such statement shall be submitted for printing not more than 30 days after the expiration of each such period.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) and the gentlewoman from New York (Ms. SLAUGHTER) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SESSIONS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the consideration of H. Res. 676.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I rise today to discuss the unwarranted, ongoing shift of power in favor of the executive branch.

Under President Obama, the executive branch has increasingly gone beyond the constraints of the Constitution. In fact, in a number of instances, the President's actions have gone beyond his article II powers to enforce the law and have infringed upon the article I powers of Congress to write the law.

We are here today because, at the beginning of this Congress, every Member of this body took an oath of office in which we swore to ''support and defend the Constitution of the United States.'' At the beginning of each Presidential term, the President takes an oath to ''faithfully execute the Office of the President of the United States and . . . to the best of my ability, preserve, protect and defend the Constitution of the United States.'' While these oaths are slightly different, the object of both oaths is the same. The President and Members of Congress have an obligation to follow and defend the Constitution.

The text of the Constitution that we have sworn to defend provides separate powers for each branch of the Federal Government. Article I puts the power to legislate—that is, to write the law—in the hands of Congress. Article II, on the other hand, requires that the President ''take care that the laws be faithfully executed.'' The difference is important. The Founders knew that giving one branch the power to both write and execute the law would be a direct threat to the liberties of the American people. They separated these powers between the branches in order to ensure that no one particular person, whether it be the President or a Member of Congress, could trample upon the rights of the people.

My fear is that our Nation is currently facing the exact threat that the Constitution is designed to avoid. Branches of government have always attempted to exert their influence on the other branches, but the President has gone too far. Rather than faithfully executing the law as the Constitution requires, I believe that the President has selectively enforced the law in some instances, ignored the law in other instances and, in a few cases, unilaterally attempted to change the law altogether.

These actions have tilted the power away from the legislature and toward the Executive. They have also undermined the rule of law, which provides the predictability necessary to govern a functioning and fair society. By and large, this country is founded upon the rule of law, and this tilts that balance. By circumventing Congress, the President's actions have marginalized the role that the American people play in creating the laws that govern them. Specifically, the President has waived work requirements for welfare recipients, unilaterally changed immigration laws, released the Gitmo Five without properly notifying Congress, which is the law, and ignored the statutory requirements of the Affordable Care Act.

We have chosen to bring this legislation forth today to sue the President over his selective implementation of the Affordable Care Act because it is the option most likely to clear the legal hurdles necessary to succeed and to restore the balance between the branches intended by the Founders. This administration has effectively rewritten the law without following the constitutional process.

When the executive branch goes beyond the constraints of the Constitution and infringes upon the powers of the legislative branch, it is important that the remaining branch of government—the judiciary—play its role in rebalancing this important separation of powers. After all, the constitutional limits on government power are meaningless unless judges engage with the Constitution and enforce those limits.

My friends in the minority do not seem to believe that the judiciary is up to its role in rebalancing the separation of powers. I disagree. Yesterday, at the Rules Committee, Members of the minority argued that this lawsuit is frivolous and a waste of time. They argued that if this litigation were to go forward that it would lead to countless lawsuits between the branches of government.

What my friends in the minority might fail to tell you—but I will today on the floor—is that they were for suing the President before they were against it. Eight years ago, in 2006, some Members of the minority, including the ranking member of the Rules Committee—the gentlewoman from New York—were plaintiffs in a lawsuit filed by congressional Democrats against then sitting President George W. Bush.

That is right. Eight years ago, my friends across the aisle filed a lawsuit against the President, brought by Members of one half of the Congress. The Democratic ranking member of the Judiciary Committee, the gentleman from Michigan, who is also a plaintiff, argued that he was alarmed by the erosion of our constitutional form of government and by a President who shrugged about the law. After consulting with some of the foremost constitutional experts in the Nation, he said he had determined that there was one group of people who was injured by the President's lack of respect for checks and balances—the House of Representatives.

I want to echo one line that he argued at the time regarding the separation of powers:

If a President does not need one House of Congress to pass the law, what is next?

Perhaps this makes sense.

Mr. Speaker, I submit for the RECORD an editorial from The Huffington Post, on April 26, 2006, by the ranking member of the Judiciary Committee, the gentleman from Michigan. It is entitled, ''Taking the President to Court,'' in which he made a compelling argument as to why Members of the House could, in fact, have standing to sue the President.

[From The Huffington Post, July 30, 2014]

TAKING THE PRESIDENT TO COURT

As some of you may be aware, according to the President and Congressional Republicans, a bill does not have to pass both the Senate and the House to become a law. Forget your sixth grade civics lesson, forget the book they give you when you visit Congress—''How Our Laws Are Made,'' and forget Schoolhouse Rock. These are checks and balances, Republican-style.

As the Washington Post reported last month, as the Republican budget bill struggled to make its way through Congress at the end of last year and beginning of this year (the bill cuts critical programs such as student loans and Medicaid funding), the House and Senate passed different versions of it. House Republicans did not want to make Republicans in marginal districts vote on the bill again, so they simply certified that the Senate bill was the same as the House bill and sent it to the President. The President, despite warnings that the bill did not represent the consensus of the House and Senate, simply shrugged and signed the bill anyway. Now, the Administration is implementing it as though it was the law of the land.

Several public interest groups have sought to stop some parts of the bill from being implemented, under the theory that the bill is unconstitutional. However, getting into the weeds a bit, they have lacked the ability to stop the entire bill. To seek this recourse, the person bringing the suit must have what is called ''standing,'' that is they must show they were injured or deprived of some right. Because the budget bill covers so many areas of the law, it is difficult for one person to show they were harmed by the entire bill. Thus, many of these groups have only sought to stop part of it.

After consulting with some of the foremost constitutional experts in the nation, I determined that one group of people are injured by the entire bill: Members of the House. We were deprived of our right to vote on a bill that is now being treated as the law of the land.

So, I am going to court. With many of my Democratic Colleagues (list appended at the bottom of this diary), I plan to file suit tomorrow in federal district court in Detroit against the President, members of the Cabinet and other federal officers seeking to have a simple truth confirmed: a bill not passed by the House and Senate is not a law, even if the President signs it. As such, the Budget bill cannot be treated as the law of the land.

As many of you know, I have become increasingly alarmed at the erosion of our constitutional form of government. Whether through the Patriot Act, the Presidents Secret Domestic Spying program, or election irregularities and disenfranchisement, our fundamental freedoms are being taken away. Nothing to me is more stark than this, however. If a President does not need one House of Congress to pass a law, what's next?

The following is a list of co-plaintiffs on this lawsuit. I would note that I did not invite every Member of the House to join in the suit, and I am certain many, many more Members would have joined if asked. However, this was not possible for various arcane legal reasons.

The other plaintiffs include Rep. John Dingell, Ranking Member on the Energy and

Commerce Committee; Rep. Charles B. Rangel, Ranking Member on the Ways and Means Committee; Rep. George Miller, Ranking Member on the Education and Workforce Committee; Rep. James L. Oberstar, Ranking Member on the Transportation and Infrastructure Committee; Rep. Barney Frank, Ranking Member on the Financial Services Committee; Rep. Collin C. Peterson, Ranking Member on the Agriculture Committee; Rep. Bennie Thompson, Ranking Member on the Homeland Security Committee; Rep. Louise M. Slaughter, Ranking Member on the Rules Committee; Rep. Fortney ''Pete'' Stark, Ranking Member on the Ways and Means Health Subcommittee; Rep. Sherrod Brown, Representing Ohio's 13th District.

Mr. SESSIONS. Mr. Speaker, the litigation considered by this resolution is a lot different and is a lot stronger than litigation filed by my friends on the other side against a previous President. The majority of these lawsuits was brought by a small group of legislators or individual Members. Today, the House as an institution will vote to authorize the suit, which gives this case, I believe, a far better chance in court than previous attempts.

My friends in the minority at the Rules Committee yesterday claimed that this is all about politics, but the Republican members of this committee repeatedly insisted that we disagreed. The issue is not about partisan politics. It is not about Republicans and Democrats. This lawsuit is about the legislative branch's standing up for the laws that have been passed and signed into law by the legislative branch and signed by the Executive of this great Nation. Republicans are motivated to stand up for the Constitution, the separation of powers, and the rule of law.

Any person who believes in our system of government should be worried about the President's executive overreach. This President, as well as future Presidents—from either party—must not be allowed to ignore the Constitution and to circumvent Congress.

Both Republicans and Democrats have stood up for the legislative branch in the past. In fact, there have been 44 lawsuits filed in the last 75 years in which legislators sought standing in Federal court. Of the 41 filed by plaintiffs from a single party, nearly 70 percent were brought by Democrats, representing the body.

I submit for the RECORD an editorial by Kimberley Strassel, from The Wall Street Journal, dated July 17, 2014, that further explains why the Democrats were suing the President before they were against it, and I call on my colleagues on both sides of the aisle to stand up for Congress and to defend our Constitution against the executive branch.

[From The Potomac Watch, July 17, 2014]

THE BOEHNER-BASHERS' TRACK RECORD

(By Kimberley A. Strassel)

In the tiny House Rules Committee room in Congress on Wednesday, New York Democrat Louise Slaughter let roll her grievances against House Republicans' lawsuit against Barack Obama. It took a lot of coffee.

The suit, which sues the president for unilaterally changing a core provision of ObamaCare, is a ''political stunt,'' declared Ms. Slaughter. Republicans have ''timed'' it to ''peak . . . right as the midterm elections are happening,'' said the ranking Rules member. Having failed to stop ObamaCare, they have chosen to ''run to the judicial branch.'' And, she lectured, a ''lawsuit against the president brought by half of the Congress'' is ''certainly'' not the ''correct way to resolve'' a ''political dispute.'' As for the legal merits, well! Ms. Slaughter feted her witness, lawyer Walter Dellinger, praising his work on Raines v. Byrd , a 1997 case in which the Supreme Court found members of Congress do not have automatic standing to sue. The courts, she insisted, had no business settling such disputes. A lawsuit against the president, she declared, ''is preposterous.''

About the only thing Ms. Slaughter didn't do in five hours was offer House Speaker John Boehner her litigation notes. For it seems to have slipped Ms. Slaughter's mind—and the press's attention—that a mere eight years ago she was a plaintiff in a lawsuit filed by congressional Democrats against George W. Bush. The year was 2006, just as Democrats were, uh, peaking in their campaign to take back the House.

Democrats were sore that they'd lost a fight over a budget bill that made cuts to Medicaid and student loans. They dredged up a technical mistake—a tiny difference between the House and Senate version of the bill. Michigan Democrat John Conyers, ranking member of the House Judiciary Committee, decided to (how did Ms. Slaughter put it?) file a lawsuit against the president brought by half of the Congress. He was joined as a plaintiff by nearly every other then-ranking Democratic member and titan in the House—Charles Rangel, John Dingell, George Miller, Collin Peterson, Bennie Thompson, Barney Frank, Pete Stark, James Oberstar and Ms. Slaughter herself.

In an April 2006 Huffington Post piece titled ''Taking the President to Court,'' Mr. Conyers explained that he was ''alarmed by the erosion of our constitutional form of government,'' and by a president who ''shrugged'' about ''the law.'' After ''consulting with some of the foremost constitutional experts in the nation,'' he had determined that there was ''one group of people'' who were ''injured'' by Mr. Bush's lack of respect for ''checks and balances'': Congress. So he was ''going''—or as Ms. Slaughter might put it, ''running''—''to court.''

The plaintiffs—including Ms. Slaughter—meanwhile filed briefs explaining why Raines v. Byrd (her Dellinger special) should be no bar to granting them standing. They chided the defendants for omitting ''any mention'' of Coleman v. Miller, a 1939 case in which the Supreme Court did grant standing to members of a legislature to sue. By Wednesday, it was Ms. Slaughter who was omitting any mention that any such decision ever existed.

Then again, there was so much that escaped Democrats' minds at that hearing. Not one of those present, for instance, recalled that only two years ago, four of their House colleagues filed suit against Vice President *Joe Biden* (in his capacity as head of the Senate) challenging as unconstitutional the filibuster. Or that Democratic legislators also filed lawsuits claiming standing in 2011, and in 2007, and in 2006, and in 2002 and in 2001 and . . . It was left to Florida International University law professor Elizabeth Price Foley, another witness, to remind Democrats that in fact no fewer than 44 lawsuits in which legislators sought standing had been filed in federal court since Coleman v. Miller. Of the 41 filed by plaintiffs with unified political affiliation, nearly 70 percent were brought by Democrats. At least 20 of those came since 2000. The GOP might thank Ms. Slaughter for the idea.

Save one crucial difference. It was also left to Ms. Foley to explain that the reason most of these prior cases had failed is because most were, in fact—again, in Ms. Slaughter's words—''political stunts.'' The majority, including the Slaughter case, were brought by ad hoc groups of legislators, sore over a lost political battle, complaining to courts. The judiciary wasn't much impressed.

By contrast—and by far the more notable aspect of the five long hours of the hearing—is the care the Boehner team is putting into its own suit. While Democrats used Wednesday to score political points, Republicans used it to grill their expert witnesses on case law and constitutional questions. Mr. Boehner's decisions to have the House as a whole vote to authorize the suit, and to narrowly tailor it around a specific presidential transgression (and one that no private litigant would ever have standing to protest), are designed to make this a far different and better breed of a court case.

It's precisely because Democrats know how good a point Republicans have about Obama unilateralism that they are already working to dismiss the suit as ''political.'' And to do that, Ms. Slaughter must have us forget that up until, oh, two weeks ago, Democrats were all about asking the courts to vindicate Congress's prerogatives. How times change.

Mr. SESSIONS. Mr. Speaker, through this lawsuit, the United States House of Representatives will take a critical and crucial step in reining in the President and in defending the Constitution so that it will endure for yet another generation.

I reserve the balance of my time.

□ 1700

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, across the country, conservative thinkers and legal scholars are discrediting this lawsuit against the President. They are exposing it for what it is: a political stunt timed to peak in November as Americans are heading to the polls for the midterm elections.

For example, Harvard Law Professor and Former Assistant Attorney General under President George W. Bush Jack Goldsmith wrote: ''the lawsuit will almost certainly fail, and should fail for lack of congressional standing.''

Even Supreme Court Justice Antonin Scalia, joined by Chief Justice Roberts and Justice Thomas, wrote that the Framers of the Constitution emphatically rejected a ''system in which Congress and the Executive can pop immediately into court, in their institutional capacity, whenever the President . . . implements a law in a manner that is not to Congress' liking.''

Conservative writer and former Justice Department official Andrew C. McCarthy wrote recently that this lawsuit is ''a classic case of assuming the pose of meaningful action while in reality doing nothing.''

Heavens to Betsy, how much more do we have to hear that this is not going to work?

A recent poll by CNN found that 57 percent of Americans oppose the lawsuit. Yes, the majority of the American

people recognize it for what it is: political theater. They recognize this lawsuit is not only a distraction from the real problems that plague our Nation, but that it is designed to appease radical Republicans clamoring for impeachment.

The Rules Committee, of which I am ranking member, was the only committee to consider this lawsuit. Under regular order, the House Administration Committee would have also held hearings and a markup because they are the ''money'' committee that handles the House's internal accounts, but they were not given the chance to do so.

Over the past 3 weeks, the Rules Committee heard testimony from constitutional scholars who debated the merits of the lawsuit and offered several amendments. The minority on our committee offered nearly a dozen amendments aimed at bringing some transparency and accountability to this process, and they were all voted down along party lines.

Democrats offered an amendment that would have required that this political stunt be funded from the Benghazi Select Committee's budget, another political stunt. After the 14 investigations of the Benghazi tragedy, they have allocated $3.3 million to continue to chase after a nonexistent scandal.

We offered an amendment that would have ensured that any law firms contracted for this lawsuit were not also lobbyists trying to influence us at the same time that they represented us in court, a clear conflict of interest.

We even offered an amendment that would have required disclosure of which programs and budgets in the Federal budget will be reduced to pay for the lawsuit. Would the funds come from the Veterans' Affairs Committee, the House Armed Services Committee? We don't know, because the majority has refused to tell us.

Before they vote today, Members of this House deserve to know exactly which legislative branch functions will be curtailed to pay for this folly. Otherwise, how can we cast an informed vote?

We focused our amendments on cost because of how important cost is. It is not, as has been stated here, an imaginary concern. Republicans have wasted hundreds of billions of dollars in this month alone passing over $700 billion, with a B, of unpaid-for tax extenders on this House floor. Republicans took $24 billion out of the economy when they shut down the government to deny health care to millions. And, according to CBS News, the majority has wasted over $79 million on the more than 50 votes for the House floor to dismantle, to undermine, and to repeal the Affordable Care Act.

Where in the world does it stop?

When Republicans defended the discriminatory Defense of Marriage Act and employed outside counsel in a similar lawsuit—with the fate that we believe this will have—they cost the American taxpayers $2.3 million. We learned later that their lawyers charged $520 an hour—an hour, and at that rate, they would have been paid $1 million a year for a 40-hour workweek.

So what will this lawsuit cost, Mr. Speaker? That is what we want to know. The minority requested this information. The majority replied: ''A lawsuit is a small price to pay.''

We could be spending money on our crumbling infrastructure, investing in our education system, making it easier for our children to go to college, even building some high-speed rail—we are about the only country left in the world that doesn't have any—or addressing climate change. We just had a terrible flood in my district and next door, where they have lost sewer systems, water systems. We could be doing so many other things than simply throwing this money away.

The idea of fiscal responsibility, of fiscal tightness, absolutely is decimated in just what I have said already at this time, the money wasted here, with nothing for it, when the needs are so great and the population cries out for relief. But instead of investing in our country, the majority insists on bringing a lawsuit that, if it is successful, will do the opposite of everything they have been trying to accomplish since 2010.

Yes, after years of rallying against the Affordable Care Act, not one of them would vote for it as it passed the House, voting to derail it, working against it—pay attention here—they are suing the President for not implementing it fast enough. And if that makes no sense to you, you are not alone. We don't understand it either.

Not only is this logic upside-down and inside out, it is directly against the feelings of members of their own party. A recent poll from the Commonwealth Fund found that 77 percent of people were pleased with their new coverage. Republicans themselves have a 74 percent satisfaction rate with the new plans that they have bought.

Now before us, we have a lawsuit that has been ridiculed and railed against by conservative thinkers and progressives alike. It is a deplorable waste of taxpayer funds and would go against everything the Republicans have been working for for 4 years. The Republicans that I worked with in this Congress when I first came here would not even think of this.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, at this time, I yield 4 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Judiciary Committee.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Texas, the chairman of the Rules Committee, for his leadership on this issue.

Without enforcement of the law, there cannot be accountability under a law, and political accountability is essential to a functioning democracy. We in the House of Representatives who face reelection every 2 years under the Constitution are perhaps reminded of that more often than others. And while there is at least one political branch willing to enforce the law, we will not fail to act through whatever means of which we can successfully avail ourselves.

When the President fails to perform his constitutional duty that he take care that the laws be faithfully executed, the Congress has appropriations and other powers over the President. But none of those powers can be exercised if a Senate controlled by the President's own political party refuses to exercise them. Nor would the exercise of those powers solve the problem at hand, because they would not actually require the President to faithfully execute the laws.

And, of course, the most powerful and always available means of solving the problem at hand is to vote out of office supporters of the President's abuses of power. In the meantime, however, the need to pursue the establishment of clear principles of political accountability is of the essence.

Earlier this year, I joined with Representative GOWDY to introduce H.R. 4138, the ENFORCE the Law Act, to put a procedure in place for Congress to initiate litigation against the executive branch for failure to faithfully execute the laws. But while that legislation passed the House with bipartisan support, the Senate has failed to even consider it, so today we consider a resolution to authorize litigation by the House to restore political accountability and enforce the rule of law.

Although the case law on standing may be murky, one thing is absolutely clear: the Supreme Court has never closed the door to the standing of the House as an institution.

As President Lincoln said: ''Let reverence for the laws be . . . enforced in courts of justice.''

It is the courts' duty, too, to uphold reverence for the law, and it is the specific duty of the courts to call fouls when the lines of constitutional authority under the separation of powers established by the Constitution have been breached.

A lawsuit by the House of Representatives would grant no additional powers to the judicial branch over legislation. Indeed, what a statute says or doesn't say would remain unaffected. But it would be the appropriate task of the Federal courts to determine whether or not, whatever a statute says, a President can ignore or alter it under the Constitution.

The stakes of inaction are high. The lawsuit will challenge the President's failure to enforce key provisions of the law that has come to bear his name in the popular mind and was largely drafted in the White House. What provisions of ObamaCare have been enforced have not proved popular, and

what provisions the President has refused to enforce have been delayed until after the next Federal elections.

How convenient for the President, yet how devastating to accountability in our Republic.

Imagine the future if this new unconstitutional power of the President is left to stand. Presidents today and in the future would be able to treat the entire United States Code as mere guidelines and pick and choose among its provisions which to enforce and which to ignore. The current President has even created entirely new categories of businesses to apply his unilaterally imposed exemptions.

In that future, if a bill the President signed into law was later considered to be bad policy and potentially harmful to the President's political party if enforced, accountability for signing that policy into law could be avoided by simply delaying enforcement until a more politically opportune time, if at all. No longer would Presidential candidates running for reelection have to stand on their records, because their records could be edited at will.

The SPEAKER pro tempore. The time of the gentleman has expired

Mr. SESSIONS. Mr. Speaker, I yield the gentleman an additional minute.

Mr. GOODLATTE. Sign one bill into law, enforce another version of it in practice. Rinse and repeat until the accumulation of power in the Presidency is complete.

We should all support this resolution today, as it aims to unite two-thirds of the Federal Government in delivering a simple message: Congress writes the laws and the President enforces them. Our own constitutionally required oath to support the Constitution of the United States requires no less.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Speaker, I thank the gentlelady for yielding, and I rise in opposition to the bill that is before us.

It is somewhat ironic that the Republicans want to sue the President for not enforcing a law that they want to repeal. How ironic. But it is, frankly, a demonstration of their frustration that they have been unable politically to attain the objective that they seek. They therefore repair to the wasting of time by this Congress and the wasting of the taxpayers' money on a hypocritical and partisan attack against the President, one that is meant to distract from the pressing issues of the day, like fixing our broken immigration system, raising the minimum wage, or restoring emergency unemployment insurance for those seeking jobs.

While the majority of Americans oppose this lawsuit gimmick, House Republicans continue to move ahead with it instead of acting on those policies and other critical legislation which the majority of the American public do support: Make It In America jobs bills, Export-Import Bank reauthorization, terrorism risk insurance, Voting Rights Amendment Act, continuing resolutions and appropriations bills. All of these the American people want to see us do.

But in polls, they show they don't want us to be doing this. They think it is frivolous. They think it is without merit. They think it should not be done.

All the bills that I referenced they think ought to be done. How sad it is that we come here and do things the American public thinks are a waste of time while not doing things Americans think are very important.

I tell my friend from Texas, and he is my friend, none other than Justice Antonin Scalia has made the point that the judiciary traditionally does not hear cases of political disagreement between the other two branches.

□ 1715

In fact, in United States v. Windsor, Justice Scalia said, a ''system in which Congress and the Executive can pop immediately into court, in their institutional capacity, whenever the President implements a law in a manner that is not to Congress' liking.'' Scalia felt that was not justified.

We believe this legislation is not justified. We further believe that the American people do not believe this legislation is justified. We do believe that the base of the Republican Party that tried to defeat President Obama in 2012, voted against him in 2008, and disagreed with him on the issues thinks this is what is available to them.

It is wrong. It is a waste of time. It is a waste of money. It is a distraction from the issues that are so important to our people. This lawsuit is nothing more than a partisan bill to rally the Republican base, and for some, it doesn't go far enough.

Under President Clinton, Republicans' playbook was shut down and then impeach. Under President Obama, Republicans said that if the Affordable Care Act were not repealed—not that they would sue him. They said they would shut down the government if they didn't get their way. They didn't get their way, and they shut down the government.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. SLAUGHTER. I yield the gentleman an additional 1 minute.

Mr. HOYER. They threatened to shut down the government, and they shut down the government. And the American people said, that is not what we want done.

Again, they come to this floor because they cannot achieve, through their political process, the ends they seek. They have voted over 50 times to repeal or undermine the Affordable Care Act. They do not want it implemented. Now they want to sue the President because he is not implementing it fully, and now they are suing and refusing to say that impeachment is off the table.

In fact, their newly elected whip, the gentleman from Louisiana (Mr. SCALISE) declined the opportunity to rule out impeachment on four separate occasions last weekend.

My friends, instead of wasting time and money on the lawsuit and what might follow, Congress ought to do what our constituents sent us here to do: create jobs, grow the middle class, invest in an economy where all of our people can work hard, and make it in America.

Reject this waste of time. Vote ''no'' on this unjustified, impractical, losing proposition for the suit against the President of the United States.

Mr. SESSIONS. Mr. Speaker, we just heard a lot of revisionist history.

But I will answer the question. And the answer is that years back, we did impeach William Jefferson Clinton because he lied to an FBI agent. He lied to a Federal grand jury, and he violated a Federal law, which was a felony. Oh, by the way, that led to impeachment for a felony while in office, a sitting President.

In this instance, the President of the United States is not faithfully executing the laws of the country, and that is an entirely different process. So for the gentleman to suggest that this is going to lead to that is simply not true.

I will tell you that William Jefferson Clinton violated the Federal law as a felony, and we believe our President, now Barack Obama, is not faithfully executing the laws. And anybody could figure that out who serves as a Member of Congress.

I would now like to yield 4 minutes to the gentleman from South Carolina (Mr. DUNCAN), a member of the Foreign Affairs, Homeland Security, and Natural Resources Committees.

Mr. DUNCAN of South Carolina. Mr. Speaker, I would just remind my colleague from Maryland who just spoke that, in my humble opinion, HARRY REID shut down the government.

Mr. Speaker, let me explain for everybody watching at home across America what the separation of powers doctrine means. I know this is obvious for most Americans because we study it in school. But since our constitutional scholar President doesn't seem to get it, it apparently needs to be explained again.

Our Constitution says that we, the legislative branch—this branch—we write the laws. The President executes the laws. And the courts settle any dispute we may have. Got it? We write the laws. The President executes the laws. The court settles the disputes.

Our Constitution does not say that the President gets to write his own laws. Our Founders knew that was a bad idea. They had seen kings wield that kind of power, and they knew they didn't want that for the new Nation. They understood that too much power in the hands of any one person or any one group of people would inevitably lead to tyranny.

As Christian men of the day, they understood that since the Garden of Eden, man is fallen, and that fallen men, once they have a taste of power, they will always lust for more. They knew that ''Power corrupts; absolute power corrupts absolutely.''

So in their understanding of fallen man, the remedy was a system of checks and balances, and clearly delineated, but separate, powers divided among three equal branches of government. We write the laws. The President executes them. It should be simple, right?

Mr. Speaker, we are here today because the President has failed us in two directions. He has failed to execute the laws we have written, and he has rewritten the laws on his own. I believe that is a breach of his oath of office to uphold the laws.

So we are gathered here, as the first branch, the legislative branch, the branch that is closest to the people, to seek the judicial branch's help in reining in the power of an out-of-control executive branch, plain and simple. We are here specifically to bring legal action against the President of the United States to stop him from unilaterally rewriting the so-called Affordable Care Act.

By the way, that is really a misnomer. There is nothing ''affordable'' about the Affordable Care Act, and the American people know it. But really, that is a discussion for another day.

From the individual mandate to the business mandate to the waivers for Big Labor to the HHS regulations that were struck down by the Supreme Court, to the decision just last week to exempt the U.S. territories—how many people is that, 4 million people?—exempt 4 million more people from the law known as ObamaCare with just the action of the President's pen, time and time and time again, we have seen this President rewrite the law.

But rewriting ObamaCare isn't only one of the ways this President has abused his power. Look at the mess on the southern border right now, a mess of the President's own making, thanks to his decision not to enforce the immigration law and his attempt to attempt to rewrite that law through a failed DACA regulation and so-called ''prosecutorial discretion.'' Last week, I sent the President 21 tweets which laid out the things that he could do to stop this mess at the border that are within the law, within his purview. And still, he continues to operate outside the law.

And it is not just the border and ObamaCare. It is DOMA and the NLRB and an out-of-control EPA trying to backdoor cap-and-trade legislation, a regulatory war on coal, and the waters of the United States—regulation after regulation, administrative action after action with no basis in real, actual bona fide law that this body has passed. This administration has chosen repeatedly to flout laws or to try to rewrite laws without going through the legislative process that our Founders set up for us.

The Constitution, they are laying all over the place. Get a copy. Look at it. Understand the separation of powers.

This Congress must use every power at our disposal to restore balance to our government and uphold the rule of law. We have voted repeatedly to use the power of the purse to cut off funding for unconstitutional activities within this administration. We have voted repeatedly, Mr. Speaker, to overturn bad regulations. We passed the ENFORCE Act, the REINS Act, and I have cosponsored numerous other efforts that repair our broken system of checks and balances in order to stop the overreaches of this administration. We must act today, and we must continue to act until this administration and this President relent and get it right.

I support this resolution to take this President to court.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SESSIONS. Mr. Speaker, I yield the gentleman an additional 30 seconds.

Mr. DUNCAN of South Carolina. Let's take this President to court because I believe we need to take whatever steps are necessary and in our power to rein in this administration and hold them accountable to the United States Constitution and citizens of the United States of America.

The Founding Fathers gave us this recourse to restore the balance of power and uphold the rule of law. That is why this is so important for the legislative branch to reassert our authority, to make the law so he can enforce the law.

May God continue to bless this body. May God continue to bless the men and women that serve this country. And may God continue to bless the United States of America.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

Mr. CONYERS. I thank the gentlelady.

Mr. Speaker, Members of the House, as the former chairman of the House Judiciary Committee, I rise in strong opposition to House Resolution 676, which would authorize the Speaker to file suit against the President of the United States for failing to enforce the Affordable Care Act, which has been attacked more than 51 times unsuccessfully in the House.

Now, why do I oppose this seriously flawed measure? One, the fact that it addresses a nonexistent problem. Two, it violates constitutional requirements and fundamental separation of power principles. And three, it diverts Congress from focusing on truly critical matters that require prompt legislative responses.

Mr. Speaker, I would like to include in the RECORD a letter received only today signed by eight constitutional law scholars explaining the reasons why a lawsuit filed pursuant to H. Res. 676 is likely to fail.

JULY 30, 2014.

Hon. JOHN BOEHNER,
Speaker of the House,
Washington, DC.

DEAR SPEAKER BOEHNER, We write as law professors who specialize in constitutional law and federal courts to express our view that the members of the House of Representatives lack the ability to sue the President of the United States in federal court for his alleged failure to enforce a federal statute, even if an Act of Congress were to authorize such a suit and especially without such legislative authorization. Never in American history has such a suit been allowed. In fact, in many cases, the United States Supreme Court and the United States Court of Appeals for the District of Columbia Circuit have held that members of Congress lack standing to sue in federal court. An entire House of Congress is in no stronger a position to sue. Moreover, this is exactly the type of political dispute which courts have found to pose a non-justiciable political question and that should be resolved in the political process rather than by judges.

In Raines v. Byrd, 521 U.S. 811 (1997), members of Congress sued to challenge the constitutionality of the line-item veto. The Court dismissed the case for lack of standing and said that the members of Congress ''have alleged no injury to themselves as individuals, the institutional injury they allege is wholly abstract and widely dispersed, and their attempt to litigate this dispute at this time and in this form is contrary to historical experience . . . . We therefore hold that these individual members of Congress do not have a sufficient 'personal stake' in this dispute and have not alleged a sufficiently concrete injury to have established Article III standing.''

After Raines v. Byrd, it is clear that legislators have standing only if they allege either that they have been singled out for specially unfavorable treatment as opposed to other members of their bodies or that their votes have been denied or nullified. This is consistent with a large body of lower court precedent, primarily from the United States Court of Appeals for the District of Columbia Circuit, that requires a showing of nullification of a vote as a prerequisite for standing. The Court of Appeals has stated that a member of Congress has standing only if ''the alleged diminution in congressional influence . . . amount[s] to a disenfranchisement, a complete nullification or withdrawal of a voting opportunity.'' Goldwater v. Carter, 617 F.2d 697, 702 (D.C. Cir. 1979), vacated and remanded on other grounds, 444 U.S. 996 (1979); see also Harrington v. Bush, 553 F.2d 190, 213 (D.C. Cir. 1977).

It is just for this reason that the House of Representatives as a body, like its members individually, lacks standing to sue. The claim that the President has not fully enforced provisions of the Affordable Care Act, or other laws, does not amount to a ''disenfranchisement, a complete nullification, or withdrawal of a voting opportunity.'' Congress retains countless mechanisms to ensure enforcement of a law, ranging from use of its spending power to assigning the task to an independent agency.

On many occasions throughout American history, the Supreme Court has seen the need for the federal judiciary to stay out of disputes between the elected branches of government. That is exactly the lesson that the proposed lawsuit would ignore. Thus the suit likely would be dismissed both for want of standing and because it poses a non-justiciable political question. As Justice Scalia pointed out years ago, courts frequently fail

to review actions or inaction by the Executive when a decision involves ''a sensitive and inherently discretionary judgment call, . . . the sort of decision that has traditionally been nonreviewable, . . . [and decisions for which] review would have disruptive practical consequences.'' Webster v. Doe, 486 U.S. 592, 608 (1988) (Scalia, J., dissenting). The question presented here poses the very essence of what the Supreme Court in Baker v. Carr, 369 U.S. 186, 217 (1962), said is a political question because of ''the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government.'' The idea of a judge telling a President how to exercise his discretion in enforcing a law cuts at the heart of separation of powers and thus presents a question non-justiciable in the courts.

Under long-standing practice and precedents, disputes, such as this one between members of the House of Representatives and the President, must be worked out in the political process, not the courts.

Disclaimer: institutional affiliations are for identification purposes only.

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CHARLES TIEFER,
Professor, University of Baltimore School of Law.

Mr. CONYERS. To begin with, H. Res. 676 seeks to solve a nonexistent problem because the President has, in fact, fully met his obligations to fully execute the laws.

Allowing flexibility in the implementation of a major new program, even where the statute mandates a specific deadline, is neither unusual nor a constitutional violation.

Indeed, in the case of the Affordable Care Act's employer mandate, the administration acted pursuant to statutory authorization granted to it by Congress.

Section 7805(a) of the Internal Revenue Code authorizes the Treasury Secretary to issue any rules necessary for the enforcement of the Code, including the provisions that enforce the employer mandate.

Exercising discretion in implementing a law is the reality of administering sometimes complex programs and is inherent in the President's duty to ''take care'' that he ''faithfully'' execute laws.

This has been especially true with respect to the Affordable Care Act. The President's decision to extend certain compliance dates to help phase-in the Act is not a novel tactic.

Yet, even though not a single court has ever concluded that reasonable delay in implementing a complex law constitutes a violation of the Take Care Clause, the Majority insists there is a constitutional crisis.

In addition, a suit initiated under H. Res. 676 would itself be unconstitutional and would violate separation of powers principles.

This is because such a lawsuit would essentially allow federal courts to second-guess decisions by the Executive Branch in how it chooses to implement a policy.

The federal judiciary, under the political question doctrine, avoids answering such questions precisely because a court is not appropriate forum to resolve issues of complex policy.

Additionally, it is highly unlikely that Congress could satisfy the standing requirements of Article III of the Constitution that must be met in order to enforce the Take Care Clause.

To meet those requirements, a plaintiff—under the Supreme Court's 1997 decision in Raines v. Byrd—must show, among other things, that it suffered a concrete and particularized injury.

Injury amounting only to an alleged violation of a right to have the Government act in accordance with law—which is what this resolution contemplates—is not judicially cognizable for Article III standing purposes.

This is in stark contrast to cases where Congress has sought to protect a fundamental power, like its subpoena authority.

In subpoena enforcement cases, courts have found standing for one House of Congress to sue because a specific legislative prerogative was at stake, constituting a sufficiently concrete injury to Congress to confer Article III standing.

Article III's standing requirements enforce the Constitution's separation-of-powers principles. Congress cannot simply legislate away these constitutional standing requirements.

Finally, H. Res. 676 is obviously just pure political theater that distracts the public from the fact that this Republican-controlled House has failed to address a whole host of critical issues.

These include immigration reform, extending unemployment insurance, enhancing environmental protections, ensuring worker safety, and helping those who are financially struggling.

Coincidentally, H. Res. 676 shares a number with H.R. 676, the ''Expanded and Improved Medicare for All Act,'' which I introduced in February of 2013.

H.R. 676 would create a publicly-financed, privately-delivered health care system that would greatly improve and expand the already existing Medicare program.

My legislation would ensure that all Americans have access, guaranteed by law, to the highest quality and most cost effective health care services regardless of their employment, income or health care status.

Instead of discussing this and other critical matters, today we continue to waste precious resources on a patently unconstitutional measure that would authorize a lawsuit destined to fail.

We owe it to the American people to address real, not imaginary, challenges facing our Nation, including enhancing health care for all Americans.

I would also note that the litigation referred to by the gentleman from Texas that I was involved in eight years ago involved a situation where the House and Senate passed different versions of the same budget bill that was signed by the President. That was brought in our individual capacity as Members, not the House as a whole, and did not involve the use of additional taxpayer funds. The resolution before us today is of course an entirely different matter.

Mr. SESSIONS. Mr. Speaker, at this time, I would like to yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Mr. Speaker, I rise today in support of H. Res. 676, a resolution to authorize the House of Representatives to initiate litigation against the President, or any executive branch employee, for failure to act in accordance with their duties. Specifically, this resolution deals with the President's failure to implement the employer mandate required by his own signature law, the Patient Protection and Affordable Care Act.

While the scope of the litigation authorized is narrow, it is symbolic of a much larger problem—the President's continued refusal to faithfully execute the law, choosing, instead, to usurp Congress' exclusive constitutional right to legislate.

Simply because Congress chooses not to be the President's rubberstamp does not bestow upon him the power to circumvent the law. Conversely, when the President decides enforcement of a law might be politically perilous, he can't simply choose to ignore it.

Mr. Speaker, this is not about party politics. This is about the proper role of government, as defined by our Founders. The Federal Government was intentionally designed with three branches, each with their own separate powers and the ability to serve as a check and balance on the other two. Yet, the President—as a former constitutional law professor—refuses to recognize his proper role, defying the law and unilaterally enacting policies, or ignoring the law, at will.

I took an oath to uphold and defend the Constitution as a Member of this institution, and I have taken that oath seriously every single day.

□ 1730

Unfortunately, I believe the President's actions undermine the very same oath that he has twice taken, so I urge my colleagues to join me in this step to uphold the law and protect the balance of power by supporting the resolution.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I rise this evening in strong opposition to this resolution that would propose to have the House sue the President of the United States.

With only a few hours left before Congress adjourns for the August district work period, we have a full plate of responsibilities left unfinished. When I go back home to my district, I highly doubt that many constituents will be running up to me to thank me for Congress passing a resolution to sue the President of the United States.

I know what I will hear instead: Why hasn't the House passed comprehensive immigration reform to fix our broken immigration system? Why hasn't Congress raised the minimum wage so people who work full time don't remain in poverty? Why haven't we renewed emergency unemployment insurance for more than 3½ million Americans, including nearly 300,000 veterans?

The only answer I will be able to give them is that Republican leadership in the House cares more about scoring political points against this President than they do about helping America's middle class families.

This is a question of priorities. The American people sent us here to respond to the pressing needs that face our Nation. It should be a given that we would use our time to focus on the most important issues. Instead, we waste time on suing the President of the United States while failing to address commonsense measures to ensure economic security for every American.

Not only does this resolution reflect a very different set of priorities from the majority of Americans, we are yet again wasting millions in taxpayer dollars, just like the $3 million wasted in defending the indefensible and unconstitutional Defense of Marriage Act and billions of dollars wasted by shutting down the government to try to take away Americans' health care benefits.

It is unconscionable that when this do-nothing Republican Congress finally decided to do something, it is suing the President for doing his job when they refuse to do theirs. I wish I could say that this was politics at its worst, but I have heard too many in the Republican majority raise the specter of impeachment not to know better.

Mr. Speaker, I urge opposition to this time- and taxpayer money-wasting resolution and urge Republicans in the majority to join Democrats and address the serious challenges facing our Nation.

Mr. SESSIONS. Mr. Speaker, at this time, I would like to yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the Speaker of the House.

Mr. BOEHNER. Mr. Speaker, I thank my colleague for yielding. I also want to thank the whole House for its work to address the American peoples' concerns about jobs and our economy. All told, we have sent the Senate now more than 40 jobs bills, almost all of them in a bipartisan way.

From the first day of this Congress, I have said our focus would be on jobs, and it has been, but also on that first day, you may recall that I addressed the House about the importance of our oath of office. I noted that it is the same oath we all take, that it makes no mention of party, it makes no mention of faction or agenda. The oath only refers to the Constitution and our obligation to defend it.

Mr. Speaker, I said that with moments like this in mind. I said that knowing there would be times when we would have to do things we didn't come here to do, we didn't plan to do, and things that require us to consider interests greater than our own interests.

I have to think this is why, on several occasions, members of the minority party have taken a similar step. In 2011, some of them filed litigation against the Vice President. They took similar steps in 2006, 2002, 2001, and so forth.

Because this isn't about Republicans and Democrats—it is about defending the Constitution that we swore an oath to uphold and acting decisively when it may be compromised.

No Member of this body needs to be reminded of what the Constitution states about the President's obligation to faithfully execute the laws of our Nation. No Member needs to be reminded of the bonds of trust that have been frayed, of the damage that has already been done to our economy and to our people.

Are you willing to let any President choose what laws to execute and what laws to change? Are you willing to let anyone tear apart what our Founders have built? Think not only about the specifics of the oath you took, but think about how you took it: as one body, standing together.

That is all I am asking you to do today, to act as one institution defending the Constitution on behalf of the people that we serve.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), the distinguished ranking member of the Committee on Ways and Means.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Well, Republicans today are choosing lawsuits over legislating. They are choosing to sue the President rather than pursuing legislation to support American families.

There is no shortage of legislation awaiting action: immigration reform, a bipartisan Senate bill held up by the Speaker who has just spoken; unemployment insurance, a bipartisan Senate bill has never gotten a vote in this House held up by this Speaker; the employment nondiscrimination bill, the Senate bill not brought up here and held up by the Speaker; paycheck fairness, not brought up; a minimum wage bill, not brought up; Ex-Im, caught in controversy within the Republican conference; a highway bill, another patch, the inability of House Republicans to face up to the need for a long-term highway bill; and a voting rights reform bill sponsored by a senior Republican, held up by the Speaker of this House and the conference of the Republicans.

The Republicans in this House are suing the President because they conjure up that the President did not adopt what Republicans argue is the correct implementation of a law they have tried 50 times to destroy. It is the House Republicans who should be sued, if that were possible, for their abdication of their responsibilities to the people of this Nation.

Mr. SESSIONS. Mr. Speaker, at this time, I would like to yield 3 minutes to the gentleman from South Carolina (Mr. RICE).

Mr. RICE of South Carolina. Mr. Speaker, my favorite piece of art in this Capitol is a picture in the rotunda of our Founding Fathers gathered together to sign the Declaration of Independence, a document that they knew, when they signed it, they were signing their own death warrant if they were caught and tried for treason. They felt that strongly that they wanted to escape the bonds of a monarch and pursue freedom.

Our forefathers fought a Revolution against the greatest military power on Earth to escape the bonds of a monarchy. At the end of that bloody Revolution, the last thing they wanted was another king. They wanted freedom.

To protect that precious freedom, they designed a government of, by, and for the people based on a separation of powers. The legislative branch makes the laws; the executive branch enforces laws.

President Obama has decided that he is not bound by the separation of powers. He has bragged that if Congress will not accept his priorities, he has a pen and a phone, and he will make the laws himself.

He may have a pen, but the people have the Constitution left us by our forefathers. Our forefathers recognized that one man who can both make the laws and enforce the laws is a king, not a President. Thomas Jefferson once said that freedom does not disappear all at once, but is eroded imperceptibly day by day.

The prosperity of our great country sprang from our freedom. Our form of government set forth in the Constitution by our forefathers has protected that very fragile freedom for 200 years.

Mr. Speaker, my friends across the aisle worry about the price of a lawsuit to protect our freedom. Our forefathers paid dearly for that freedom. Many gave all they had, even their lives.

Our freedom is in peril, my friends. We cannot stand by and watch the President shred our Constitution. I stand in support of H. Res. 676.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I rise in opposition to this resolution. The constitutional question raised by this

measure is whether the House has standing to sue the President over what is, in essence, a policy difference. ''Standing'' is a constitutionally-defined status and requires that the plaintiff, among other things, demonstrate a legally recognizable injury. In the case of a suit between branches of government, the House would also have to show that there is no other remedy.

On both of these counts, this lawsuit fails. The House cannot speak for the Senate, which doesn't agree with its position, and therefore cannot represent the legislative branch. Even if it could, neither body has suffered a recognizable injury merely because some Members of the Congress do not like how the President has interpreted a law passed by a different Congress.

Moreover, this Congress has a remedy if it doesn't like the way that the President has implemented the Affordable Care Act: it can change the law. That would be a far better approach, one more consistent with our separation of powers than this expensive and ill-conceived lawsuit.

Mr. Speaker, I urge the House to reject this effort.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, the Speaker does not have a good record when it comes to wasting taxpayer dollars on frivolous lawsuits. When the Justice Department concluded that the Defense of Marriage Act could not be defended in court, the House wasted $2.3 million trying to defend the indefensible and lost in the Supreme Court.

Now, the Speaker wants to waste more of the taxpayers' money on a meritless lawsuit against the President for not ''taking care that the law be faithfully executed.''

What did the President do? In implementing the Affordable Care Act, which the Republican-led House has voted to repeal 50 times, he postponed implementation of one provision by a year, a provision the Republicans and the House opposed.

Now, they want to waste money to go to court to say the President had no power to postpone this provision for a year, although no one opposed President Bush when he postponed implementation of a provision of the Medicare drug act for a year.

It is well-settled that it is within the discretion of Presidents in implementing a law to postpone implementation of part of it in order to get it done right, but this leads to another absurdity of the case. Let's assume the Republicans get the House to go into court and somehow overcome the standing question—which they will not. What is the remedy they will seek?

By the time it got to court, the provision in question will have already been implemented, so the Republicans want to waste $5 million or $6 million in taxpayers' money to go into court and say, Judge, please order the President to implement what he has already implemented. Totally ridiculous.

So what have we got? We have a Congress that has passed no highway bill, no minimum wage bill, no unemployment extension bill, no pay equity for women bill, no action on campaign finance reform, no action to reduce the burdens of student loans, no action to make sure that women continue to have access to contraceptive services despite the Supreme Court's Hobby Lobby decision, no action on all the emergencies that face the American people, but we are going to waste money and time on a meritless lawsuit that will go nowhere, but will simply serve the single function of diverting attention from all the real problems the House Republicans want to continue to ignore.

This is not a proper use of the taxpayers' money. More wasted money for political purposes. For shame.

Mr. SESSIONS. Mr. Speaker, I would like to ask how much time remains on both sides.

The SPEAKER pro tempore. The gentleman from Texas has 4 minutes remaining. The gentlewoman from New York has 8 minutes remaining.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. I thank the gentlewoman very much, and I rise to oppose H. Res. 676, which is seeking an unconstitutional right to sue the President for doing his duty and following the law.

The underbelly of this resolution would, in essence, put fire in the hearts and minds of Americans when we find out that this legislation is to undermine the President and any of his officers and employees from doing their jobs.

□ 1745

This is a failed attempt to impeach the President. I am willing to say that word because the President has been following the law. The law passed, and it gives him discretion to interpret the Affordable Care Act to make it best work for the American people. As has been stated, if you want to change the law, go to the floor of the House. But in actuality, this resolution smacks against the Constitution which says there are three equal branches of government. Therefore, the Executive has the right to perform his duties.

I ask my colleagues to oppose this resolution for it is, in fact, a veiled attempt for impeachment, and it undermines the law that allows the President to do his job. It is a historical fact that President Bush pushed this Nation into a war that had little to do with apprehending terrorists. We did not seek an impeachment of President Bush because as an Executive, he had his authority. President Obama has the authority.

I would ask my colleagues on the other side of the aisle to, in essence, provide the opportunity for us to do valid things for the American people—improve the minimum wage, paycheck fairness—and stop undermining the authority as indicated in the Constitution that gives equal authority to the three branches of government.

We can pass laws. We have the ability to pass laws, and citizens have the right to go into court on their independent standing. The courts have often said that the Congress has no standing. The House of Representatives has no independent standing, as evidenced by many cases that we have already taken to court and determined that Congress has no standing.

The doctrine of standing is a mix of constitutional requirements, derived from the case or controversy provision in article III, and prudential considerations, which are judicially created and can be modified by Congress.

That dictates on how you gain standing, and I would say the constitutionally based elements require that plaintiffs have suffered a personal injury-in-fact, which is actual, imminent, concrete, and particularized. The injury must be fairly traceable to the defendant's conduct and likely be redressed by the relief requested from the court.

Let me be very clear. We in Congress can make no argument that the President has injured us. We can make no independent argument of that, and so I ask my colleagues to oppose this resolution and do not accept a veiled attempt at impeachment when our President is doing his duty and following the law under the Constitution of the United States of America.

Mr. Speaker, I rise to speak in opposition to H. Res. 676, providing for authority to initiate litigation for actions by the President or other Executive Branch officials inconsistent with their duties under the constitution of the United States.

We could be doing some very important legislation to help the American people from Texas to the tip of Maine, like Comprehensive Immigration Reform, the Appropriations Border Supplemental, comprehensive tax reform, the Export-Import Bank Reauthorization, or the Voting Rights Act, yet my Republican colleagues insist on wasting valuable time.

The Congressional Black Caucus did a Special Order earlier this week entitled: the GOP's March Towards Impeachment, and that is where we appear to be headed.

But first let me make a distinction between impeachment and a lawsuit initiated by the House, qua House of Representatives, via H. Res. 676.

Article II, Section 4 of the United States Constitution states:

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

In any impeachment inquiry, the Members of this branch of government must confront

some preliminary questions to determine whether an impeachment is appropriate in a given situation.

The first of these questions is whether the individual whose conduct is under scrutiny falls within the category of President, Vice President, or ''civil Officers of the United States'' such that he is vulnerable to impeachment.

A preliminary question is whether the conduct involved constitutes ''treason, bribery, or other high crimes or misdemeanors.''

Now Mr. Speaker, whether we get to this point where we are actually considering impeachment of the President is a question that only the GOP majority can answer. It appears that we are heading in that direction—even in the face of doubt from numerous experts as to whether the effort will succeed or not.

Indeed, it is a matter of historical fact that President Bush pushed this nation into a war that had little to do with apprehending the terrorists of September 11, 2001; and weapons of mass destruction, ''WMD's'' have yet to be found.

House Democrats refused to impeach President Bush.

Let me state that again: House Democrats refused to impeach President George W. Bush.

Now I wish to turn to the resolution which the GOP Majority intends to put before this body in a last-ditch effort to stir their base before November.

Former Solicitor General Walter Dellinger testified before the Rules Committee two weeks ago and had this to say about the potential lawsuit:

> The House of Representatives lacks authority to bring such a suit. Because neither the Speaker nor even the House of Representatives has a legal concrete, particular and personal stake in the outcome of the proposed lawsuits, federal courts would have no authority to entertain such actions.
>
> Passage of the proposed resolution does nothing to change that. If federal judges were to undertake to entertain suits brought by the legislature against the President or other federal officers for failing to administer statutes as the House desires, the result would be an unprecedented aggrandizement of the political power of the judiciary.
>
> Such a radical liberalization of the role of unelected judges in matters previously entrusted to the elected branches of government should be rejected.

My colleagues on the other side argue that lawsuits by Congress to force the administration to enforce federal laws will prevent the President from exceeding his constitutional authority,

But the Supreme Court has constantly held that the exercise of executive discretion being taken by President Obama is within the President's powers under the Constitution.

The doctrine of standing is a mix of constitutional requirements, derived from the case or controversy provision in Article III, and prudential considerations, which are judicially created and can be modified by Congress.

The constitutionally based elements require that plaintiffs have suffered a personal injury-in-fact, which is actual, imminent, concrete and particularized. The injury must be fairly traceable to the defendant's conduct and likely to be redressed by the relief requested from the court.

CONSTITUTIONAL REQUIREMENTS

To satisfy the constitutional standing requirements in Article III, the Supreme Court imposes three requirements.

The plaintiff must first allege a personal injury-in-fact, which is actual or imminent, concrete, and particularized.

Second, the injury must be ''fairly traceable to the defendant's allegedly unlawful conduct, and'' third, the injury must be ''likely to be redressed by the requested relief.''

PRUDENTIAL REQUIREMENTS

In addition to the constitutional questions posed by the doctrine of standing, federal courts also follow a well-developed set of prudential principles that are relevant to a standing inquiry.

Similar to the constitutional requirements, these limits are ''founded in concern about the proper—and properly limited—role of the courts in a democratic society,'' but are judicially created.

Unlike their constitutional counterparts, prudential standing requirements ''can be modified or abrogated by Congress.''

If separation-of-powers principles require anything, it is that each branch must respect its constitutional role.

When a court issues a decision interpreting the Constitution or a federal law, the other branches must abide by the decision.

The executive branch's ability to fulfill its obligation to comply with judicial decisions should not be hampered by a civil action by Congress pursuant to this bill as my amendment to H.R. 4138, the ENFORCE ACT made clear.

And Mr. Speaker, a basic respect for separation of powers should inform any discussion of a lawsuit from both a constitutional standpoint and a purely pragmatic one.

In our constitutional democracy, taking care that the laws are executed faithfully is a multifaceted notion.

And it is a well-settled principle that our Constitution imposes restrictions on Congress' legislative authority, so that the faithful execution of the laws may present occasions where the President declines to enforce a congressionally enacted law, or delays such enforcement, because he must enforce the Constitution—which is the law of the land.

This resolution, like the bill we considered in the Judiciary Committee on which I serve and before this body, the H.R. 4138, The ENFORCE Act, has problems with standing, separation of powers, and allows broad powers of discretion incompatible with notions of due process.

The legislation would permit one House of Congress to file a lawsuit seeking declaratory and other relief to compel the President to faithfully execute the law.

These are critical problems. First, Congress is unlikely to be able to satisfy the requirements of Article III standing, which the Supreme Court has held that the party bringing suit have been personally injured by the challenged conduct.

In the wide array of circumstances incident and related to the Affordable Care Act in which the resolution would authorize a House of Congress to sue the president, that House would not have suffered any personal injury sufficient to satisfy Article III's standing requirement in the absence of a complete nullification of any legislator's votes.

Second, the resolution violates separation of powers principles by inappropriately having courts address political questions that are left to the other branches to be decided.

And Mr. Speaker, I thought the Supreme Court had put this notion to rest as far back as Baker v. Carr, a case that hails from 1962. Baker stands for the proposition that courts are not equipped to adjudicate political questions—and that it is impossible to decide such questions without intruding on the ability of agencies to do their job.

Third, the resolution makes one House of Congress a general enforcement body able to direct the entire field of administrative action by bringing cases whenever such House deems a President's action to constitute a policy, of non-enforcement.

This bill attempts to use the notion of separation of powers to justify an unprecedented effort to ensure that the laws are enforced by the President—and I say one of the least creative ideas I have seen in some time.

Mr. Speaker, I ask my colleagues to deliberate before we are at a bridge too far.

Mr. SESSIONS. I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS. Mr. Speaker, I want to thank my good friend, the gentlewoman from New York for yielding.

Mr. Speaker, this resolution is a waste of time and money. We are sent to Congress to make progress on behalf of the people of this Nation, yet House Republicans spend all of their time and energy fighting this President. Why?

The Republicans need to jump off the bandwagon of political attacks and come together to jump-start the economy. While Americans were unemployed, they did nothing to put them back to work. When people were losing their homes, they did little to protect them from foreclosure. While hunger and poverty are on the rise in this country, they have hardly mentioned the disappearing middle class.

From his first day in office, Republicans in the House, in this House, have never supported this President. Every olive branch he has extended was broken.

But today, Mr. Speaker, they have reached a low, a very low point. This resolution to sue the President just goes a little too far. It is a shame and a disgrace that we are here debating the suing of the President. The American people deserve better. We can do better. We can do much better.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. SLAUGHTER. I yield an additional 30 seconds to the gentleman.

Mr. LEWIS. I urge each and every one of my colleagues to have the raw courage—nothing but courage—to oppose this insulting and offensive resolution. It has no place on this floor. Let us get back to the work that we were elected to do.

The SPEAKER pro tempore. The Chair would advise Members to speak within the time yielded to those Members.

The gentlewoman from New York has 5½ minutes remaining.

Mr. SESSIONS. With the gentlewoman having 5½ minutes left, I will reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Tennessee (Mr. COHEN), the ranking member of the Judiciary Committee on the Constitution and Civil Justice.

Mr. COHEN. Mr. Speaker, I appreciate the time.

I find it interesting that this is all about President Obama engaging in an executive overreach. Look at the statistics. During President Obama's first term and comparing him to prior Presidents, President Bush issued 173 executive orders, President Clinton 200, President Reagan 213, and President Obama only 147. And during this part of President Obama's second term, he has thus far issued only 36 executive orders, while President Bush, during his second term, issued 116; Clinton, 164; and Reagan, 168. So I ask you, based on the statistics, is that overreach? No, it is underreach. It is underreach.

MITCH MCCONNELL said upon President Obama's inauguration the job was to see that this man wasn't reelected. Now the job seems to be to see that the attack on the President can be such that the Republicans take the Senate and hopefully set the stage for 2016 of the Presidency. This unquestionably is impeachment lite. It is an attempt to put the President in a situation in a lawsuit that, if successful, which I find hard to believe, would be the foundation for impeachment.

This President has done nothing that is impeachable, nothing that merits this type of action, nothing that merits this type of disrespect. He should be respected as our President and supported, and we should work to create jobs, pass an infrastructure bill, pass a minimum wage bill, and extend unemployment insurance.

Mr. SESSIONS. Mr. Speaker, at this time, I would like to yield 2 minutes to the gentleman from Lewisville, Texas (Mr. BURGESS), a member of the Rules Committee.

Mr. BURGESS. Mr. Speaker, I thank my chairman for yielding me the time.

There are plenty of places in the Affordable Care Act where it is full of drafting errors and stuff that, quite frankly, just wasn't quite ready for prime time, but, Mr. Speaker, there is no ambiguity over this issue.

When the President delayed the institution of the employer mandate on July 2, 2013, it couldn't have been clearer. Let me give you an example. The effective date for the individual mandate as written in law, and this is for the individual mandate:

> The amendments made by this section shall apply to taxable years ending after December 31, 2013.

Pretty clear. ''Shall apply.'' Seems straightforward.

The effective date for the employer mandate, section 1514 of the law, effective date:

> The amendments made by this section shall apply to months beginning after December 31, 2013.

It really does seem straightforward. There is no ambiguity there. I would just ask the question: Is there a list of laws that must be followed and those that may or may not be followed depending upon whatever the will of the President is that day?

I would remind my colleagues the words of Abraham Lincoln:

> The best way to end a bad law is to enforce it strictly.

We should do the same.

Ms. SLAUGHTER. Mr. Speaker, may I inquire how much time I have?

The SPEAKER pro tempore. The gentlewoman from New York has 3½ minutes remaining.

Ms. SLAUGHTER. I yield 1½ minutes to the gentleman from South Carolina (Mr. CLYBURN).

Mr. CLYBURN. Mr. Speaker, I thank the gentlelady for yielding me this time.

Mr. Speaker, we in this body are called upon to represent the wishes of the American people. The last national election, President Obama was reelected by the American people by an overwhelming majority. What we find today are the people who opposed his reelection, the people who for years now have been wishing upon him failure, are attempting to do with this lawsuit what they could not do at the polling places.

Rather than address the problems of the American people, repair our crumbling infrastructure, getting affordability for our young people to attend colleges and universities and other postsecondary education, here we are trying to find a way to discover some peg upon which to hang an impeachment resolution. That is what this is all about.

I would hope that we would hurry up and return dignity to this body and stop these charades that are inflaming the American people in a way that they are undeserving of.

Mr. SESSIONS. Mr. Speaker, I would like to advise the gentlewoman that I have no additional speakers except myself to close, so I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am prepared to close, and I yield myself the balance of my time.

Mr. Speaker, we are about to bring to a close this sorry spectacle of legislative malpractice. It really saddens me to think that we have arrived at this point in this legislative year when we are about to go home for 5 weeks of legislative work in the district when we should be here on the floor taking care of the very many issues that people have talked about all day.

But most importantly, this lawsuit goes against everything that the majority has been working for for the last 4 years. They have tried over 50 times, spending $79 million, to repeal the Affordable Care Act. And no one, frankly, listening to this is now going to believe that there is this great change of heart and they are so broken up that it wasn't implemented in time and by the book that you are going to try to sue the President of the United States. I don't think even to kids watching Sesame Street that would make any sense. In fact, the strongest arguments about it really come from the majority's own party. It is sadly a partisan political election year stunt, and it has no place in this House.

As I said earlier today, when I first came here, the bipartisanship was so wonderful and strong that the New York delegation, all of us, stood together on issue after issue. I miss that terribly and long for it to come back.

In the meantime, I ask my colleagues to vote against this disgraceful resolution.

I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, our system of government is in a bad place when one branch of government is compelled to sue another branch of government for failing to play its proper constitutional role. We shouldn't be in that situation, but we are. The President should have fulfilled his oath to faithfully execute the laws as written by Congress and signed by this President. Unfortunately, this lawsuit is necessary because the President has not implemented the law as passed and chose to pick and choose how he would have the law affect the American citizens.

This resolution will help guarantee that the legislation passed by Congress and signed by the President is faithfully executed according to the rule of law and not according to the whim of one person, that being the President of the United States. Also, no President should be allowed to pick and choose which laws matter and which ones do not.

It is unfortunate that some Members of Congress believe this body should be irrelevant. It is unfortunate that they believe any President should be able to enforce the law or not enforce the law as that President chooses.

The American people elect their Member of Congress. They live under the laws that are written. They make their plans and follow through based upon what the laws are, and they live under these rules of law, and they need to be able to count on them. When Members of Congress believe the laws that we pass no longer matter, they are also saying that the beliefs of the American people do not matter.

□ 1800

When we allow the President to singlehandedly determine what the law is, the Constitution, our separation of powers, and the American people become irrelevant. That is why the President's system of unilateral governance cannot stand. It must be stopped. Even if it takes a lawsuit to do so, that is what we think the Federal judiciary is there to do: to resolve differences based upon the law. If the President's goal was to goad the House into defending the Constitution and the role of the

government, he certainly had succeeded when he said: Why not just sue me?

Our Constitution must be defended and the role of the American people in the lawmaking process must be understood and guaranteed. This resolution is an important step in doing that.

I urge my colleagues to vote in favor of this resolution.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I submit an exchange of letters between Chairman of the Committee on House Administration, CANDICE MILLER, and myself regarding the Committee on House Administration's jurisdictional interests in this resolution as well as Chairman MILLER'S desire to waive House Administration's consideration of H. Res. 676. These letters were also included in House Report 113-561, which was filed on July 28, 2014.

JULY 24, 2014.

Hon. PETE SESSIONS;
Chairman, The Committee on Rules, Washington, DC.

DEAR CHAIRMAN SESSIONS: On July 24, 2014, the Committee on Rules ordered reported H. Res. 676, a resolution providing for authority to initiate litigation for actions by the President or other executive branch officials inconsistent with their duties under the Constitution of the United States. As you know, the Committee on House Administration was granted an additional referral upon the bill's introduction pursuant to the Committee's jurisdiction under rule X of the Rules of the House of Representatives over the allowance and expenses of administrative officers of the House.

Because of your willingness to consult with my committee regarding this matter, I will waive consideration of the bill by the Committee on House Administration. By agreeing to waive its consideration of the bill, the Committee on House Administration does not waive its jurisdiction over H. Res. 676.

I request that you include this letter and your response as part of your committee's report on the bill and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

CANDICE S. MILLER,
Chairman, Committee on House Administration.

JULY 24, 2014.

Hon. CANDICE S. MILLER
Chairman, Committee on House Administration, Washington, DC.

DEAR CHAIRMAN MILLER: Thank you for your letter regarding H. Res. 676, resolution providing for authority to initiate litigation for actions by the President or other executive branch officials inconsistent with their duties under the Constitution of the United States, which the Committee on Rules ordered reported on July 24, 2014.

I acknowledge your committee's jurisdictional interest in this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forego further action on the bill will not prejudice the Committee on House Administration with respect to its jurisdictional prerogatives on this or similar legislation.

I will include a copy of your letter and this response in the Committee's report on the bill and the Congressional Record when the House considers the legislation.

Sincerely,

PETE SESSIONS,
Chairman, House Committee on Rules.

Ms. CORRINE BROWN of Florida. Mr. Speaker, today on the House Floor, the Republican leadership is taking a dangerous and unprecedented action by bringing up H. Res 676, a bill to move forward with a lawsuit against President Barack Obama.

Beyond a doubt, the move to sue the President is yet another example of the failed leadership of the Republican Party. If the Republicans had acted on critical issues to move our country forward instead of wasting time and taxpayer money by taking over 50 senseless votes to repeal the Affordable Care Act or shutting down the Federal government, the President would not have needed to use Executive authority in the first place.

With fewer than 150 bills enacted into law to date, the 113th Congress is on course to be the least productive in our nation's history. Undeniably, this Republican led Congress is the worst, and least productive, in our nation's history.

Instead of spending time passing partisan bills that attack working Americans, weaken environmental protections and retreat on education and job training opportunities, this Congress should be working to create jobs and strengthen the middle class, not wasting taxpayer dollars on yet another political stunt.

Congress should instead be focusing on the issues that matter: creating jobs, fixing our broken immigration system, restoring unemployment insurance for 3 million Americans, and raising the minimum wage to help workers and their families to have access to opportunities. Along with my Democratic colleagues, I strongly urge House Republicans to work with Democrats to help create jobs and opportunities for the American people, not engage in political tricks.

Ms. ESHOO. Mr. Speaker, I rise today in opposition to the unprecedented Republican plan to sue the President of the United States.

At a time when Congress should be focusing on strengthening the middle class and expanding opportunities for all Americans, our Republican colleagues in the House accuse the President of unconstitutionally abusing his executive power by delaying the requirement in the Affordable Care Act that larger companies provide health insurance to their employees.

At a time when student debt exceeds credit card debt in our country, when mothers are the primary breadwinner yet receive unequal pay, and when job creation is stagnating, our Republican colleagues have proposed a baseless, shameful lawsuit that further erodes the public's confidence in the United States Congress and a functioning American democracy.

The lawsuit is fundamentally flawed in several ways:

First, Republicans argue that the President acted outside of his authority with respect to implementing the ACA.

Claims that the President is ignoring the law are unmerited. Records show that the President is using the same flexibility that presidents of both parties have long utilized to phase in new programs and policies and ensure that statutes are implemented in workable, sensible ways, minimizing disruption to individuals, families and businesses.

Everything we do in Congress bears the mark of humanity. No law is perfect and occasionally, presidents must make reasonable, short-term accommodations to reality.

Second, the courts are not the appropriate place to work out political disagreements between one half of one House of Congress and the Administration.

The Affordable Care Act was passed by the House and the Senate and signed into law by the President. I understand that many House Republicans hate the law; they've made that abundantly clear in the more than 50 times they have voted to repeal it.

After unsuccessfully attempting to repeal the law through regular order, House Republicans, grasping at straws, have opted to give away the mighty powers of the legislative branch to the judicial branch. If Congress starts relying on judges to check executive power, instead of the tools the Constitution grants us, this body will transfer enormous authority to the judicial branch.

And to add insult to injury, the entire cost of this political misadventure will be paid for by the taxpayers.

Repeated attempts to maintain regular order regarding cost transparency have been rebuffed.

Ranking Member SLAUGHTER of the Rules Committee sent a letter to Chairman SESSIONS, asking for a cost estimate of the lawsuit. No useful information has been provided.

Ranking Member BRADY of the House Administration Committee sent a letter to Speaker BOEHNER asking for regular order and transparency with the use of taxpayer money. No useful information has been provided.

Amendment after amendment was offered by the Minority Members of the Rules Committee to provide transparency to the expenditures which would come out of legislative branch funds. All were voted down on party lines.

This lawsuit is further proof of House Republicans' contempt and disregard for the priorities of the American people—an effort to pander to the most extreme, rightwing voters at taxpayer expense and our nation's well-being.

Mr. HOLT. Mr. Speaker, I rise today in strong opposition to H. Res. 676. This legislation, which authorizes a lawsuit that the Republican Party plans to bring against President Obama, is a waste of time and a waste of money.

Congress has two days before the August recess and instead of bringing up unemployment insurance, the Bring Jobs Home Act, the Fair Minimum Wage Act, the Paycheck Fairness Act, the Bank on Students Emergency Loan Refinancing Act, the Employment Non-Discrimination Act, universal pre-K legislation reauthorization of the America COMPETES Act, reauthorization of the Export Import Bank reauthorization of the Terrorism Risk Insurance Act, legislation addressing global climate change, legislation to fund the federal government after September 30th of this year, gun control, comprehensive immigration reform, or any number of other issues that have stalled in the House since the Republicans took control in 2010, this is what the Republican majority has chosen to pass.

The proposed lawsuit has dubious legal standing and no evident merit at all. Every administration has used the executive authority delegated to it by the Constitution and by the Congress, in the implementation and execution of our nation's laws. In fact, Supreme

Court Justice Antonin Scalia said ''The framers of the Constitution emphatically rejected a system in which Congress and the Executive can pop immediately into court, in their institutional capacity, whenever the President . . . implements a law in a manner that is not to Congress's liking.''

I hope that the American people will see this action for what it is—a stunt—an attempt to placate a radical wing of the Republican Party. The majority should be embarrassed to use Congressional time for this rather than for real, pressing issues.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of the 3.5 million Americans who have lost their unemployment benefits over the past seven months and the one million Dreamers whose aspirations continue to be tragically denied and in strong opposition to the Majority's endless parade of political stunts, now best highlighted by the present legislation, H. Res. 676, a resolution giving one chamber of Congress the authority to sue the President.

As the American people's elected representatives, we have a duty to debate and vote on pressing legislation, such as long-term unemployment insurance and comprehensive immigration reform.

Instead, the Majority is wasting the American people's time and precious tax dollars on this political stunt that will inevitably fail. Any first-year law student would be able to tell the Majority that our chamber would lack standing before any court under the U.S. Constitution because there's simply no injury.

Just nine days ago, Judge William Griesbach agreed, dismissing a suit brought before the Eastern District Court of Wisconsin by Senator RON JOHNSON against the U.S. Office of Personnel Management over its implementation of the Affordable Care Act because the Senator lacked standing.

To quote Judge Griesbach, ''Under our constitutional design, in the absence of a concrete injury to a party that can be redressed by the courts, disputes between the executive and legislative branches over the exercise of their respective powers are to be resolved through the political process, not by decisions issued by federal judges.''

One of our nation's most noted jurists, Supreme Court Justice Antonin Scalia agrees. He wrote last year in his opinion in United States v. Windsor, regarding the dangers of resolving a political question before a court, that the framers of the Constitution unequivocally rejected a ''system in which Congress and the Executive can pop immediately into court, in their institutional capacity, whenever the President . . . implements a law in a manner that is not to Congress's liking.''

Our Constitution provides the Executive wide discretion in the implementation of federal law. In 2006, then-President George W. Bush extended the deadline and waived penalties for certain seniors who failed to sign up in time for the new Medicare prescription drug program.

At that time, or in the following year when control of this chamber changed hands, neither Democrats nor Republicans contemplated suing President Bush over his use of executive discretion.

If the Majority is dissatisfied with current federal law, it should use its authority granted under Article I to amend it.

Otherwise, the Majority should do what every elected official under our present government has done since 1788—go before the American people and openly debate the merits of their agenda—which today includes the unashamed denial of millions of Americans essential unemployment benefits or the million young persons raise in our country the opportunity to become Americans.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 694, the previous question is ordered on the resolution, as amended.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 201, not voting 6, as follows:

[Roll No. 468]

YEAS—225

Aderholt
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barton
Benishek
Bentivolio
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Clawson (FL)
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crawford
Crenshaw
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
Diaz-Balart
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Palazzo
Paulsen
Pearce
Perry
Petri
Pittenger
Pitts
Poe (TX)
Posey
Price (GA)
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—201

Barber
Barrow (GA)
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Broun (GA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Garrett
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Massie
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (CA)
Peters (MI)
Peterson
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rahall
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Slaughter
Smith (WA)
Speier
Stockman
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—6

DesJarlais
Foster
Hanabusa
Nunnelee
Pompeo
Sires

□ 1828

Mr. GUTHRIE changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. FOSTER. Mr. Speaker, on rollcall No. 468 had I been present, I would have voted ''no.''

REDUCING REGULATORY BURDENS ACT OF 2013

GENERAL LEAVE

Mr. GIBBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 935.

The SPEAKER pro tempore (Mr. WOODALL). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GIBBS. Mr. Speaker, pursuant to House Resolution 694, I call up the bill (H.R. 935) to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Water Pollution Control Act to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reducing Regulatory Burdens Act of 2013''.

SEC. 2. USE OF AUTHORIZED PESTICIDES.

Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f)) is amended by adding at the end the following:

''(5) USE OF AUTHORIZED PESTICIDES.—Except as provided in section 402(s) of the Federal Water Pollution Control Act, the Administrator or a State may not require a permit under such Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under this Act, or the residue of such a pesticide, resulting from the application of such pesticide.''.

SEC. 3. DISCHARGES OF PESTICIDES.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

''(s) DISCHARGES OF PESTICIDES.—

''(1) NO PERMIT REQUIREMENT.—Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act, or the residue of such a pesticide, resulting from the application of such pesticide.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:

''(A) A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act that is relevant to protecting water quality, if—

''(i) the discharge would not have occurred but for the violation; or

''(ii) the amount of pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.

''(B) Stormwater discharges subject to regulation under subsection (p).

''(C) The following discharges subject to regulation under this section:

''(i) Manufacturing or industrial effluent.

''(ii) Treatment works effluent.

''(iii) Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel biofouling prevention.''.

The SPEAKER pro tempore. Pursuant to House Resolution 694, the gentleman from Ohio (Mr. GIBBS) and the gentlewoman from Maryland (Ms. EDWARDS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. GIBBS. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 935, the Reducing Regulatory Burdens Act of 2013.

The reason we are back here on the floor for this bill today is pure politics. In the last Congress, this bill then was H.R. 872. It was introduced on a bipartisan basis, with overwhelming bipartisan support, and it passed on the suspension calendar with two-thirds of this body in support of it. In this Congress, H.R. 935—the exact same bill—was again introduced on a bipartisan basis, with bipartisan support, and it was voice-voted out of the Transportation and Agriculture Committees.

However, earlier this week, partisanship reared its ugly head, and Members who were on record as voting in support of this legislation or in having agreed to it by voice vote were urged to change their votes from ''yes'' to ''no'' in order for it not to be agreed on by two-thirds of this body. This is partisanship at its ugliest. The principles and policy of this legislation have not changed over the last few years. Instead, the politics of it did.

I introduced H.R. 935 to clarify congressional intent regarding how the use of pesticides in or near navigable waters should be regulated. It is the Federal Insecticide, Fungicide, and Rodenticide Act—also know as FIFRA—and not the Clean Water Act, which has long been the Federal regulatory statute that governs the sale and use of pesticides in the United States. In fact, FIFRA regulated pesticide use long before the enactment of the Clean Water Act. However, more recently, as the result of a number of lawsuits, the Clean Water Act has been added as a new and redundant layer of Federal regulation over the use of pesticides.

I will not repeat the history I gave in Monday's debate of how the EPA came to impose this unnecessary second layer of Federal regulation, but I think it is important for everyone to realize that this regulatory burden is impacting not just farmers, but cities, counties, and homeowners.

Federal and State agencies are expending vital funds to initiate and maintain Clean Water Act permitting programs governing pesticide applications, and a wide range of public and private pesticide users are now facing increased financial and administrative burdens in order to comply with the new permitting process. This is adding another layer to an already big and growing pile of unfunded regulatory mandates being imposed on the regulated community. Despite what some would have you believe, all of this expense comes with no additional environmental protection.

The cost of complying with the NPDES permit regulations and the fears of potential liability are forcing mosquito control and other pest control programs to reduce operations and redirect resources to comply with the regulatory requirements. This may be having an adverse effect on public health. In many States, routine preventative programs have been reduced due to the NPDES requirements. This most likely impacted and increased the record-breaking outbreaks of the West Nile virus around the Nation in 2012. H.R. 935 will enable communities to resume conducting routine preventative mosquito and other pest control programs in the future.

H.R. 935 exempts from the NPDES permitting process a discharge to waters involving the application of a pesticide authorized for sale, distribution, or use under FIFRA, where the pesticide is used for its intended purpose and the use is in compliance with pesticide label requirements. This is appropriate because pesticide registration and enforcement programs under FIFRA take into account environmental and human health risks just like the Clean Water Act does.

H.R. 935 was drafted very narrowly with technical assistance from the United States EPA to return pesticide regulation to where it was before the court got involved. It leaves FIFRA as the appropriate and adequate regulating statute. Well over 150 organizations, representing a wide variety of public and private entities and thousands of stakeholders, have signed a letter supporting a legislative resolution of this issue.

I will insert the letter in the RECORD. Just to name a few of these organizations, they include the American Mosquito Control Association, the National Association of State Departments of Agriculture, the National Water Resources Association, the American Farm Bureau Federation, the National Farmers Union, Farm Family Alliance, the National Rural Electric Cooperative Association, CropLife America, and Responsible Industry for a Sound Environment.

In addition, I will submit for the RECORD a letter from the National Alliance of Forest Owners, who expressed support for H.R. 935. NAFO represents private forest owners and managers of over 80 million acres of private forestland in 47 States, supporting 2.4 million jobs.

Finally, I will submit for the RECORD a letter of support, plus a rebuttal paper, prepared by the American Mosquito Control Association, which rebuts the inaccuracies of several statements made by several Members on the House floor Monday evening.

JULY 28, 2014.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVES: The undersigned organizations ask for your vote in support of H.R. 935, the Reducing Regulatory Burdens Act, today. The bill will be on the floor of the House of Representatives on suspension this evening.