

House of Representatives authorizes constitutional lawsuit against Obama

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The Republican-controlled House of Representatives voted Wednesday to authorize a lawsuit against President Obama charging him with violating Article I of the US Constitution, which reserves all legislative authority to Congress. The vote was 225-201, with all Democrats voting against along with five Republicans, some of whom favor impeachment of Obama rather than a lawsuit.

House Speaker John Boehner has not yet filed the lawsuit, although this seems likely in a matter of days. The suit would be the first such legal challenge brought by Congress, although it remains to be seen whether any federal court will agree to hear it, particularly since it is brought only by the House, while the Democratic-controlled Senate opposes it.

Federal courts have repeatedly declined to hear similar lawsuits brought by individual members of Congress over allegations of illegal actions by the White House, including those brought by liberal Democrats against Bush over the Iraq War and those brought by Republicans against Obama over his health care law, immigration and other domestic issues.

The House suit would be focused on a single administration action, Obama's decision to grant a one-year extension of the mandate under the Affordable Care Act requiring employers with between 50 and 99 employees to offer health coverage.

According to the report issued by the House Rules Committee, which backed the lawsuit in a party-line vote last week, Obama has acted to "bypass the legislative process to create his own laws by executive fiat."

Ironically, the House Republicans opposed the employer mandate and voted last year to rescind it entirely. They are suing Obama for a change in the implementation of the health care law that was an

attempt to mollify right-wing opponents. This concession came at the expense of the employees of small and medium-size businesses, who were required to buy insurance this year under the individual mandate, while their employers are exempt.

The choice of which Obama action to challenge in court was crassly political. The House Republicans decided not to challenge more sweeping executive actions that they actually opposed, like the 2012 decision not to enforce immigration laws against those brought to the United States as children (so-called "dreamers"), or the 2013 order requiring federal contractors to pay a \$10.10 minimum wage, because these are among the few executive orders that are widely popular.

The Republicans calculated that the lawsuit over delaying the employer mandate could be presented as another effort to oppose Obamacare, thus appealing both to their ultra-right political base and to broader popular disaffection with the health care law, and boosting their campaign in the 2014 congressional elections.

The debate on the House floor featured extravagant demagoguery from both sides, as Republicans and Democrats sought to conceal the real constitutional and legal issues involved in the actions of the Obama administration. Behind the façade of bitter partisan divisions, the two big business parties are united in attacking the social conditions and democratic rights of the working class, while waging aggressive war overseas.

Speaker John Boehner, who traditionally does not participate in debates, postured as an implacable defender of the Constitution against overweening executive power. "Are you willing to let any president choose what laws to execute and what laws to change?"

he asked. “Are you willing to let anyone tear apart what our founders have built?”

Democrats responded by portraying the lawsuit as the first step in an effort to impeach Obama. The ranking Democrat on the House Rules Committee, Louise Slaughter, said, “This is a political maneuver timed to peak as Americans are going to the polls in November for the midterm elections. This lawsuit is the drumbeat pushing members of the Republican Party to impeachment.”

Most congressional Republicans, like their Democratic counterparts, regard impeachment as politically unpopular. Rep. Paul Ryan, the chairman of the budget committee and 2012 Republican vice-presidential candidate, said July 30 that Obama’s executive orders “do not rise to the high crimes and misdemeanor level” required for impeachment. But the newly elected House majority whip, Steve Scalise, who has close links to the ultra-right Tea Party faction, gave a different response in an appearance July 27 on Fox News Sunday. He was asked several times if the House might move towards impeachment over the influx of child immigrants across the Texas border and refused to rule it out.

Perhaps the most remarkable comment in the House debate came from Minority Leader Nancy Pelosi, who accused Boehner of capitulating to “impeachment-hungry extremists.” She recalled her own role as Speaker after the Democrats took control of the House of Representatives in November 2006, and there were calls for impeaching President Bush and Vice President Cheney for instigating the illegal war against Iraq based on lies about weapons of mass destruction. “Tell them impeachment is off the table. That’s what I had to do,” she said.

Pelosi’s admission more or less gives the game away. Neither party in Congress is prepared to oppose gross violations of the Constitution by the executive when it comes to waging imperialist wars, attacking democratic rights, or lying to the American people. The Democrats refused to impeach Bush and Cheney over Iraq, and the Republicans take the same stance in relation to Obama’s illegal wars in Libya and Syria, his drone assassinations, and the vast and entirely unconstitutional surveillance operations of the National Security Agency and other arms of the US intelligence apparatus.



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